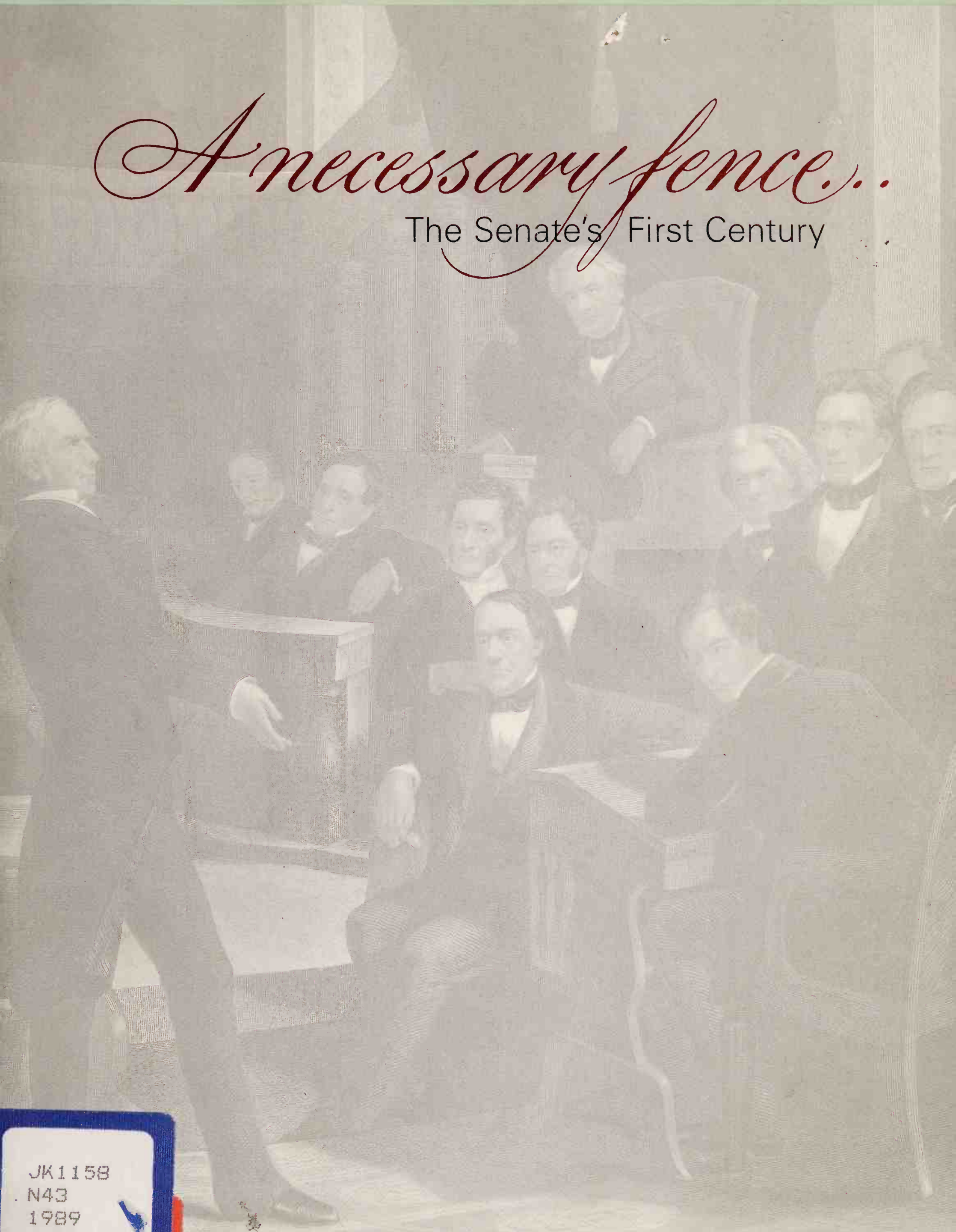
A necessary fence...

The Senate's First Century



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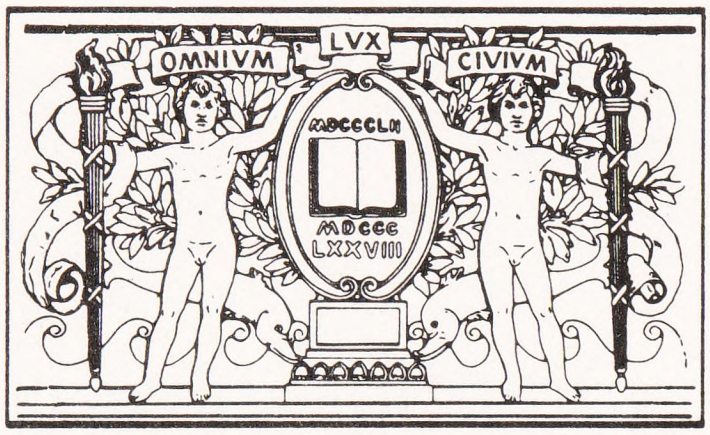

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The Senate's First Century

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A necessary fence...

The Senate's First Century

Published on the occasion
of an exhibition sponsored by the
Commission on the Bicentennial
of the United States Senate

June 7 to November 5, 1989

with a foreword by Robert C. Byrd, Chairman

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7 Foreword

8 Preface

9 Acknowledgements

11 *A necessary fence . . .*
Essay by
Donald A. Ritchie
Associate Historian
United States Senate

13 Who can be a senator?
21 How does the Senate operate?
33 What are the Senate's treaty-making powers?
41 What is the Senate's role in nominations?
53 Why was the Senate given impeachment powers?
62 After the first century

64 Lenders to the Exhibition

65 *A necessary fence . . .*
Checklist by
Diane K. Skvarla
Associate Curator
United States Senate

78 Selected Bibliography

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Foreword

Robert C. Byrd, Chairman
Commission on the Bicentennial
of the United States Senate

On January 24, 1859, Vice President John C. Breckinridge addressed the United States Senate as its members assembled for the last time in their venerable old chamber, before proceeding to their new quarters. "Hereafter," Breckinridge intoned, "the American and the stranger, as they wander through the Capitol, will turn with instinctive reverence to view the spot on which so many great materials have accumulated for history." On April 6, 1989, the members of the Senate of the 101st Congress also met in the Old Senate Chamber on the two hundredth anniversary of the day when the Senate established its first quorum and got down to business. During that bicentennial ceremony, I recalled Vice President Breckinridge's earlier words, so appropriate to the occasion, before inviting senators to rise and form a procession to the new Senate chamber, following in the steps of our predecessors.

Vice President Breckinridge's words come to mind once again as we view *A necessary fence . . . The Senate's First Century.* For like the Old Senate Chamber, this exhibition and catalogue have accumulated "many great materials" of our history. Collected here are the treasures of the Senate's beginnings: documents, paintings, and furnishings that represent the foundation upon which the modern Senate has been built and continues to function. These artifacts provide revealing clues to our past, present, and future. Those who know and love the history of this institution, and those who are curious and want to learn more, will find much here to ponder and admire. On behalf of the members of the United States Senate, I welcome all citizens of the nation and of the world to this important celebration of our democratic heritage.

Preface

James R. Ketchum
Curator
United States Senate

This exhibition was first proposed in 1982, at a meeting of the Study Group on the Commemoration of the United States Senate Bicentenary. In considering several recommendations for observing the Senate's two hundredth anniversary, the study group unanimously endorsed a program of exhibitions for itself and for institutions whose collections reflected the heritage of our federal legislature. Of particular interest to the planners was an exhibition devoted to the Senate's first century, featuring a wide range of documents, paintings, sculpture, drawings, cartoons, and memorabilia. Thus, *A necessary fence . . .* was born.

To trace the story of the Senate from its first wavering steps in the spring of 1789, to its dominance as a major player on the world's stage a century later, two gifted staff members were selected. Diane K. Skvarla, Associate Curator of the United States Senate, has guided the exhibition from the beginning, living with it day and night over the last several months. Her organizational skills and perserverance have turned a long-held dream into reality. As curator of the exhibition, Ms. Skvarla has established a standard of excellence by which all future forays into this arena will be judged. Donald A. Ritchie, Associate Historian of the United States Senate, was also "present at the creation," and his contribution to the enterprise has known no bounds. His splendid account of the Senate's first century has been skillfully woven into the narrative which appears in this volume and on the walls of the exhibition. Just as the illustrations selected for the show provide graphic documentation of the Senate's unequalled history, so too, do the vivid images painted by Mr. Ritchie's words.

The collaborative force behind *A necessary fence . . .*, to which scores have added their names, has made possible a remarkable gathering of treasures. The enthusiasm of so many for the objects selected and the ideas and experiences they represent, is a contagion which has given the exhibition a life of its own. To paraphrase the words of Walt Whitman, who frequented the chambers and corridors of the Senate during his time in Washington over a century ago, we celebrate ourselves!

Acknowledgements

Diane K. Skvarla
Associate Curator
United States Senate

Donald A. Ritchie
Associate Historian
United States Senate

Preeminent among those to whom we are grateful is Walter J. Stewart, Secretary of the Senate. Without his support, this project would not have been possible; he helped on innumerable fronts. And the response we received from members and employees of the Senate went well beyond all expectations. In particular, we are indebted to Senator Wendell Ford, Chairman of the Senate Committee on Rules and Administration; Henry K. Giugni, Sergeant at Arms of the Senate; and George M. White, Architect of the Capitol. They and their dedicated staffs provided endless technical and administrative support.

Closer to home are those in the Senate Curator's Office and Senate Historical Office. Notably, James R. Ketchum, Mary F. Phelan, John B. Odell, and Scott M. Strong were the bulwark that sustained this project. It has been a true team effort. And to Erik Fatemi, special appreciation is due; his work was invaluable.

To Don W. Wilson, Archivist of the United States, and the staff at the Center for Legislative Records and the Document Conservation Branch, we are especially indebted for preserving and maintaining the Senate's records, and making them so readily available for this project. We also offer profound gratitude to those in the museum community who willingly gave professional assistance and advice, and to the lending institutions for their co-operation.

To RJR Nabisco, whose support has been without equal, we owe a special debt. In particular we acknowledge the enduring efforts of M. B. Oglesby, Jr., W. G. Champion Mitchell, and Tommy J. Payne.

Finally, special thanks must go to the design team at Staples & Charles, who provided ideas, inspiration, and necessary criticism. Robert Staples, Barbara Fahs Charles, Patricia Tuohy, and Jane Jeffrey steered us through uncharted waters, creating an exhibition that went beyond our wildest dreams. It has been a pleasure to work with such discerning talent.

A people deliberating in a temperate moment, and with the experience of other nations before them, on the plan of Government most likely to secure their happiness, would first be aware, that those charged with the public happiness, might betray their trust. An obvious precaution against this danger would be to divide the trust between different bodies of men, who might watch and check each other. . . . It would next occur to such a people, that they themselves were liable to temporary errors, through want of information as to their true interest, and that men chosen for a short term, and employed but a small portion of that in public affairs, might err from the same cause. This reflection would naturally suggest that the Government be so constituted, as that one of its branches might have an opportunity of acquiring a competent knowledge of the public interests. Another reflection equally becoming a people on such an occasion, would be that they themselves, as well as a numerous body of Representatives, were liable to err also, from fickleness and passion. A necessary fence against this danger would be to select a portion of enlightened citizens, whose limited number, and firmness might seasonably interpose against impetuous councils.

James Madison's secret notes of proceedings during the Constitutional Convention, June 26, 1787, discussing the distinction between the Senate and the House of Representatives.

A necessary fence . . .

Essay by
Donald A. Ritchie
Associate Historian
United States Senate

Two hundred years ago, when the delegates to the Constitutional Convention debated the powers and responsibilities of the United States Senate, James Madison called the Senate "a necessary fence."

Madison saw the upper house of Congress as the best device to protect the people against their own "fickleness and passion." The Constitution divided powers among three branches of government that would watch and check one another. Within the Congress, Madison trusted that senators, who had longer terms and were elected by state legislatures, would balance representatives, who were directly elected by the people every two years and presumably more influenced by shifting public opinion. The "enlightened citizens" of the Senate could be counted upon to provide "a necessary fence" to protect rights and property against public impetuousness.

With that in mind, the Constitution granted the Senate and the House of Representatives a shared role in enacting all legislation and in overriding presidential vetoes. But it gave only the Senate the power to advise and consent on treaties and nominations and to sit as a court of impeachment. The Senate was to judge the qualifications of its own members, elect its own officers, and make its own rules. Moreover, the spareness of the Constitution's language offered the Senate considerable latitude to chart its own course. Senate actions during the First Congress, and over the first century of the Republic therefore established precedents that still stand as fence posts. Although the institution has changed significantly with the direct election of senators and the increasing democratization of government, the United States Senate continues to be shaped by those early years even as it enters its third century.

Article I, Section 3

The Senate of the United States shall be composed of two Senators from each State, chosen . . . for six Years; and each Senator shall have one Vote.

No Person shall be a Senator who shall not have attained to the Age of thirty Years, and been nine Years a Citizen of the United States, and who shall not, when elected, be an Inhabitant of that State for which he shall be chosen.

The Vice President of the United States shall be President of the Senate but shall have no Vote, unless they be equally divided.

The Senate shall chuse their other Officers, and also a President pro tempore, in the Absence of the Vice President, or when he shall exercise the Office of President of the United States.

Who can be a senator?

The word *Senate* derives from the Latin *senatus*, meaning "council of elders." By setting a minimum age of 30 for senators as opposed to 25 for representatives, along with senators' six-year terms and election by state legislatures, the framers of the Constitution indicated that they expected the Senate to be the senior body. Older, more experienced senators would balance younger, popularly-elected members of the House of Representatives, presumably more susceptible to shifting moods of public opinion. The "nature of the senatorial trust," Alexander Hamilton explained, required broader knowledge and greater stability of character, and senators needed to have "reached a period of life most likely to supply these advantages." Other than length of residency and citizenship requirements, the Constitution placed no other restrictions, neither race, gender, ethnic heritage, religious affiliation, nor property ownership, on who could be a senator. Because voting was originally limited to white male property holders, the first senators mirrored the voting population. The first black senator was elected in 1870; the first woman served in 1922; the first Hispanic-American in 1935; and the first Asian-American in 1959.

Since the Senate would be more involved in foreign relations, its members were required to have been citizens of the United States for at least nine years, as opposed to seven for House members. This stipulation served to distance senators from any predispositions "incident to foreign birth and education." The first citizenship case arose in 1793, when Pennsylvania elected Swiss-born Albert Gallatin to the Senate. Possessing a brilliant financial mind, Gallatin was the chief Jeffersonian Republican critic of Secretary of the Treasury Alexander Hamilton's financial program. On the same day Gallatin was sworn into office, the Senate received a petition from a group of Pennsylvania citizens protest-

Credentials of Thomas Hart Benton of Missouri, November 21, 1838. (cat. no. 2)

Albert Gallatin, Henry B. Hall, 1870. Responding to the petition protesting his election, Gallatin refused "to be at the trouble & expence of collecting evidence at a great distance," and declined to defend himself unless the Senate decided against him. (cat. no. 5)

ing his election on the grounds that he had not been a citizen for the requisite nine years. Not wanting to appear a secret "star chamber" when it considered Gallatin's credentials, the Senate held its first public debate in February 1794.

Although Gallatin had resided in the United States for 14 years and had served in the Revolutionary army, Federalist senators presented evidence that he had taken only one oath of citizenship in Virginia, when that state's law stipulated that two oaths were necessary. Gallatin retorted that such fine distinctions would throw into question the citizenship of many other immigrants at a time when the new nation needed to encourage population growth. Eventually, the Senate voted along partisan lines, 14 to 12, to deny Gallatin his seat. Undeterred, he won election that year to the House of Representatives, where he became an effective leader for the Republicans.

Despite the framers' expectations of a council of elders, the early senators were relatively young men. The average age of the members of the first Senate was 48 years (compared to an average of 55 years in the 101st Congress). Rufus King of New York was only 34 when he became a senator in 1789, while the oldest senator, William Samuel Johnson of Connecticut, was 61. Some ambitious young men could barely wait to enter office; no one seemed to challenge their credentials. Tennessee's Andrew Jackson was 11 days past the age of 30 when his Senate term began in 1797. In 1818, Tennessee elected Jackson's friend John Henry Eaton, who was only 28 years, 4 months and 29 days, making him the youngest person ever to serve in the Senate. Two other senators took their seats before they reached the constitutional age requirement: Armistead T. Mason of Virginia, who was 28 years, 5 months, and 18 days old when he became a senator in 1816; and Kentucky's Henry Clay, who was 29 years, 8 months and 17 days old when he entered the Senate in 1806. When another senator privately confronted him about his age, Clay replied simply, "I hope my colleagues will propound that question to my constituents."

Many southern senators were far less tolerant when the first black American elected to the Senate presented his credentials. Hiram Revels, a minister in the African Methodist Episcopal Church, army chaplain during the Civil War, and Republican officeholder during Reconstruction, was elected to the Senate by the Mississippi legislature in 1870. For

Senator Garrett Davis, the prospect of a black member of the Senate was "a morbid state of affairs." He exclaimed: "Never before in the history of this government has a colored man been elected to the Senate of the United States." Davis based his argument for exclusion on the fact that blacks had not been citizens when slavery existed; however, Republicans rebutted that the 14th Amendment had granted national citizenship to all black Americans. Senator Willard Saulsbury of Delaware denied that the 14th Amendment was a legitimate part of the Constitution and urged the Senate to avert the "great calamity" of seating Revels. Senator Charles Sumner of Massachusetts closed the debate by declaring that admitting Revels to the Senate would verify the noble words of the Declaration of Independence. "Liberty and Equality were the two express promises of our fathers," said Sumner. "Both are now assured." Hiram Revels was seated as the first black member of the Senate by a vote of 48 to 8.

The First Colored Senator and Representatives, Currier & Ives lithography company, 1872. The first black member of the United States Senate was Hiram Rhodes Revels (seated on left), elected in 1870. (cat. no. 10)

Who are the Senate's officers?

John Adams, Daniel Chester French, 1889. American artist Daniel Chester French was commissioned by the Senate to sculpt a bust of the first vice president, John Adams, for the Senate chamber. Although the payment of $800 was below his usual fee, French wrote, "I consider it an honor and worth a great deal to have a bust of mine in so important a position." (cat. no. 12)

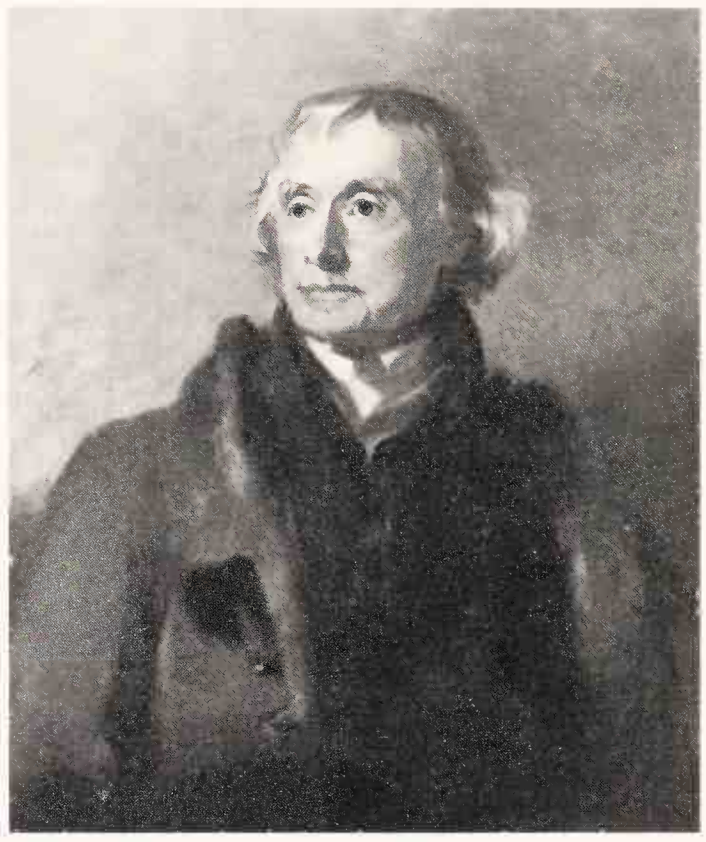
"I am Vice President, in this I am nothing, but I may be everything," Vice President John Adams was reported to have said in 1789. "But I am President also of the Senate. When the President comes into the Senate, what shall I be?" Other than to succeed to the presidency upon the death or resignation of a president, a vice president's only constitutional function is to preside over the Senate. But as presiding officer, his role is limited. Vice presidents cannot vote in the Senate, except to break a tie; nor may they formally address the Senate, except with the senators' permission. Initially, vice presidents appointed senators to standing committees, regulated access to the galleries, and supervised the keeping of the *Senate Journal*, although these duties were later removed. As the Senate's presiding officer, the vice president maintained order on the floor and in the galleries, and in early years took the lead in interpreting Senate rules; Thomas Jefferson, for example, drafted a manual on Senate procedures. Nevertheless, Vice President John Adams observed to his wife that he held "the most insignificant office that ever the invention of man contrived or his imagination conceived."

During the 18th and 19th centuries, the vice president routinely presided over the daily debates in the Senate. In the event of his absence, the Constitution instructs the Senate to choose a president pro tempore. If the vice president dies or is incapacitated, the Constitution permits Congress to enact legislation to decide "what Officer shall then act as President." In 1792, when Congress first debated the line of succession to the presidency, there was some question whether the president pro tempore and the Speaker of the House were in fact officers of the government in the sense the Constitution intended. From 1792 to 1886, the presidents pro tempore were in the line of succession. In those years, the Senate elected a president pro tempore only during the specific absences of the vice president; there were often several presidents pro tempore during a single Congress. Nor did the post go automatically to the senior member of the majority party, as occurs today. In 1886, Senator George F. Hoar of Massachusetts pointed out that there was no Speaker of the House nor president pro tempore of the Senate during the long interval between the end of one Congress in March and the beginning of the next Congress on the first Monday in December (the arrangement that existed until passage of the "lame-duck" 20th Amendment in 1933). In the event that both of these officers died

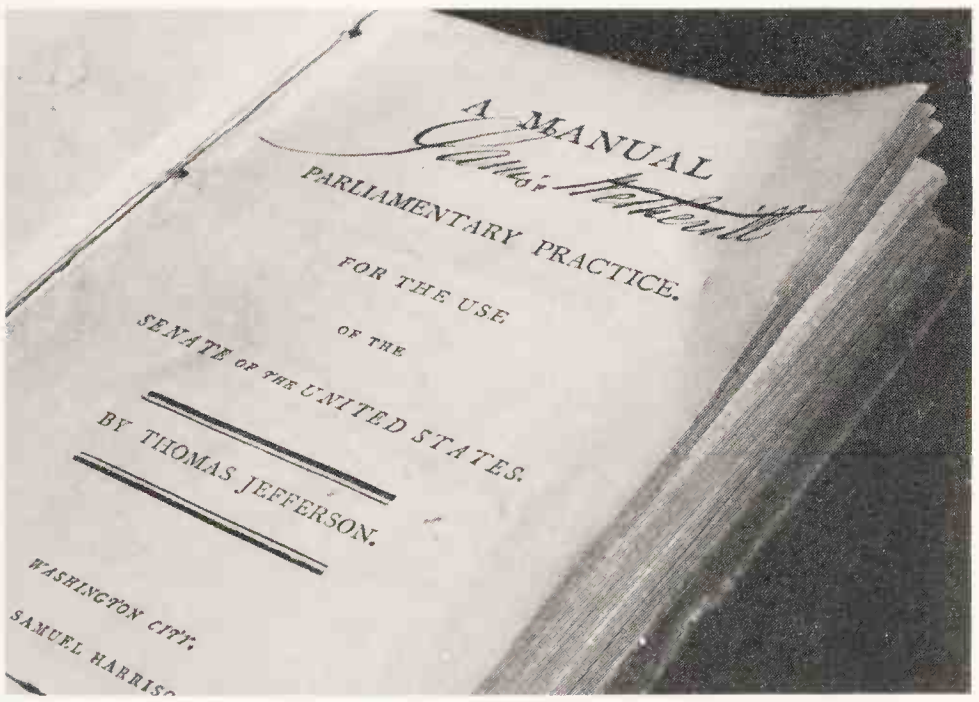
during the long interregnum, Senator Hoar proposed that members of the cabinet should constitute the line of succession. Congress adopted his suggestion, and it remained in effect until 1947.

In 1945, after Vice President Harry Truman succeeded to the presidency, he proposed that the line of succession go first to elected rather than appointed officials. Truman noted that he was in a position to appoint his own successor—a member of his cabinet—and he did not believe "that in a democracy this power should rest with the Chief Executive." Two years later, Congress adopted Truman's recommendation that the Speaker and president pro tempore be returned to the line of succession.

Neither the Senate majority leader nor minority leader are constitutional officers of the Senate. Political parties did not yet exist when the Constitution was written, and even after their emergence parties in the Senate did not initially select formal leadership. Some senators by the force of their personalities or prestige within their parties emerged as *de facto* leaders. Senator Henry Clay once protested, "I do not like to be a dictator in any sense," only to have an opposition senator shoot back, "You do it so well. You ought to like it." Throughout the 19th century, caucus and committee chairmen managed legislation on the floor and handled scheduling procedures. Not until the 1920s did the parties officially designate two floor leaders responsible for these duties.



Thomas Jefferson, Thomas Sully, circa 1851. In 1821, artist Thomas Sully traveled to Thomas Jefferson's home, Monticello, to record the former vice president's likeness. Considered the last life portrait of Jefferson in oil, this painting is one of several later copies by Sully. (cat. no. 15)



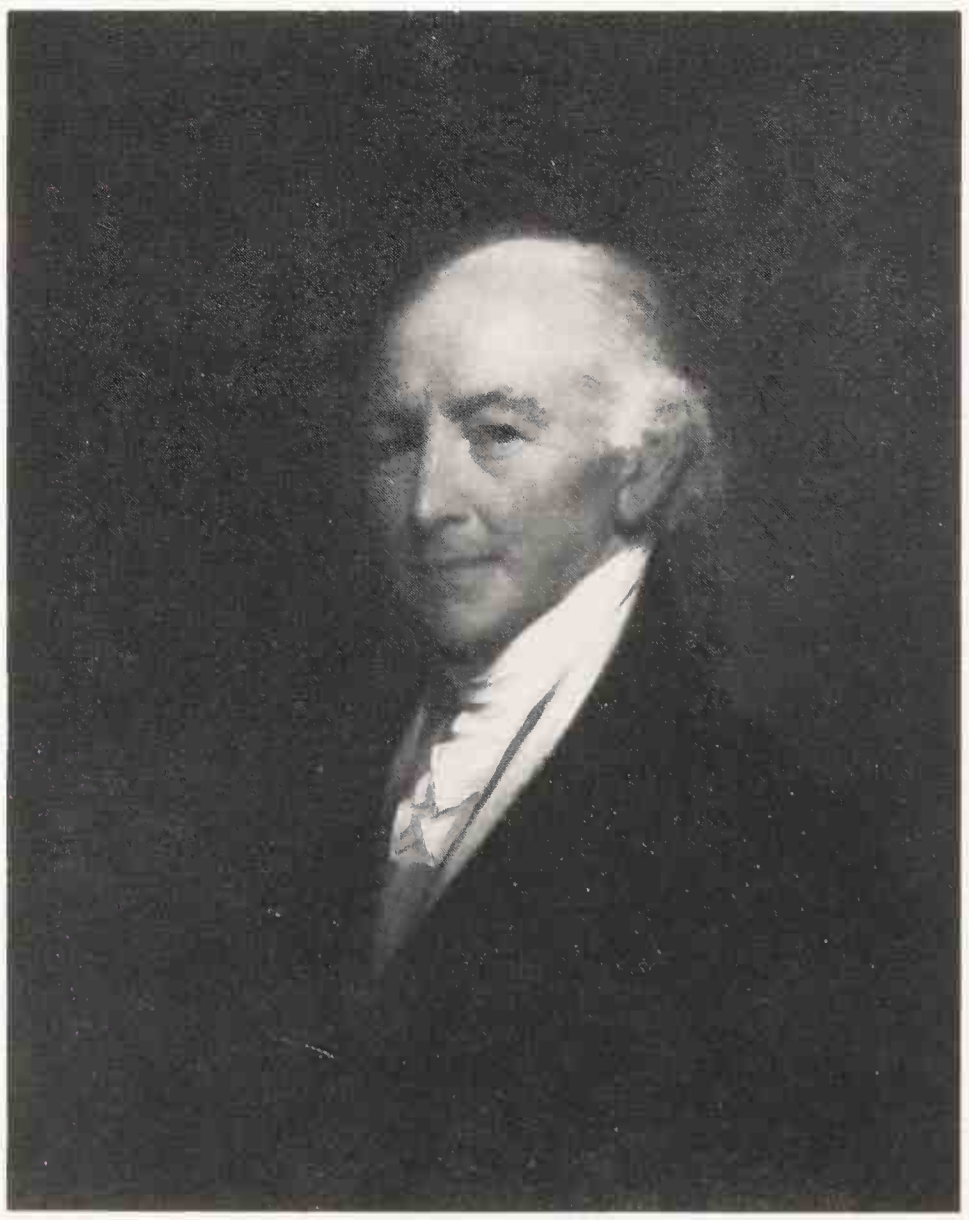
A Manual of Parliamentary Practice. For the Use of the Senate of the United States, Thomas Jefferson, 1801. In drafting this manual for future presiding officers, Vice President Jefferson was more concerned "that there should be a rule to go by than what that rule is." (cat. no. 14)

What other officials serve the Senate?

On April 6, 1789, the Senate established its first quorum and began its business at Federal Hall in New York City. The following day it elected James Mathers as doorkeeper, a post which today is called sergeant at arms. On April 8, senators elected Samuel A. Otis as secretary of the Senate. And on April 15, they elected the Right Reverend Samuel Provoost as chaplain. Two hundred years later the Senate continues to vote on these three officers at the beginning of each term.

Election of a doorkeeper was especially pressing, since the Senate initially conducted all of its business behind closed doors. In addition to keeping out the public, James Mathers was authorized to care for the Senate chamber and committee rooms and to "make the necessary provision of fire wood for the next Session." Other functions soon followed. The Senate experienced so much difficulty over senators' unauthorized absences that the doorkeeper was empowered to arrest members and escort them to the chamber. This function has been employed sparingly, generally to establish quorums and end filibusters.

In 1798, the Senate's doorkeeper was invested with the authority of "sergeant at arms," a title employed by the British Parliament and the United



Samuel A. Otis, Gilbert Stuart, 1809. As secretary of the Senate, Otis's most important daily duty was to take notes of the Senate's proceedings. Unfortunately for him, he made an enemy of the acerbic Senator William Maclay, who on May 9, 1789, wrote: "Senate formed. It took a long time to correct the minutes. Otis keeps them miserably." (cat. no. 19)

States House of Representatives. As the post of sergeant at arms was expanded, the Senate created an assistant doorkeeper to regulate access to the Senate's galleries. For many years in the 19th century this post was held by Isaac Bassett. First hired by Senator Daniel Webster in 1831 as a page at the age of 12, Bassett continued in service as a Senate messenger and then assistant doorkeeper until his death in 1895. One of Bassett's more unusual assignments was to turn back the hands of the clock at the end of Senate sessions; this allowed the senators additional time to conclude their business even though the time allotted for the session had officially expired.

While the sergeant at arms supervised doorkeepers, pages, and police, the Senate elected a secretary of the Senate to maintain its journals, handle its financial disbursements, and procure its supplies. Samuel A. Otis, the first secretary, hired scribes to record Senate proceedings; purchased the ink, quills, and parchments necessary; paid salaries to the senators (six dollars for each day the Senate was in session) and their staff; and reimbursed the members for their travels. Secretary Otis also had the honor of holding the Bible for George Washington's first inauguration as president. For 25 years, Samuel Otis performed as secretary, never missing a day that the Senate was in session. Upon his death in 1814, senators wore black arm bands for a month of mourning.

The Senate's first chaplain had been an ardent patriot during the American Revolution and was the bishop of New York's Trinity Church, located a few blocks from Federal Hall where Congress was meeting. Samuel Provoost served as chaplain until the Senate moved to Philadelphia in 1790. The Senate and House agreed that they would each appoint chaplains from different denominations; from 1789 until 1808, the Senate elected Episcopalian chaplains, while the House elected Presbyterians, Methodists, and Baptists. When Congress moved to Washington, there were few churches in the new capital city. During the early 19th century, Senate and House chaplains alternated holding Sunday church services in the House of Representatives chamber. Occasional criticism was raised concerning the separation of church and state, but in 1854 the House Judiciary Committee declared the chaplaincy consistent with the Constitution, adding that "there never was a deliberative body that so eminently needed the fervent prayer of righteous men as the Congress of the United States."

"Captain Bassett—prolongs the session," E. W. Kemble, 1887. Assistant Doorkeeper Isaac Bassett dreaded the task of turning back the hands of the Senate clock, to allow more time at the end of a session to complete legislation.

Article I, Section 5

Each House may determine the Rules of its Proceedings, punish its Members for disorderly Behaviour; and, with the Concurrence of two thirds, expel a Member.

Each House shall keep a Journal of its Proceedings, and from time to time publish the same, excepting such Parts as may in their Judgment require Secrecy.

Article II, Section 1

The President of the Senate shall, in the Presence of the Senate and House of Representatives, open all the Certificates, and the Votes shall then be counted. The Person having the greatest Number of Votes shall be the President [of the United States].

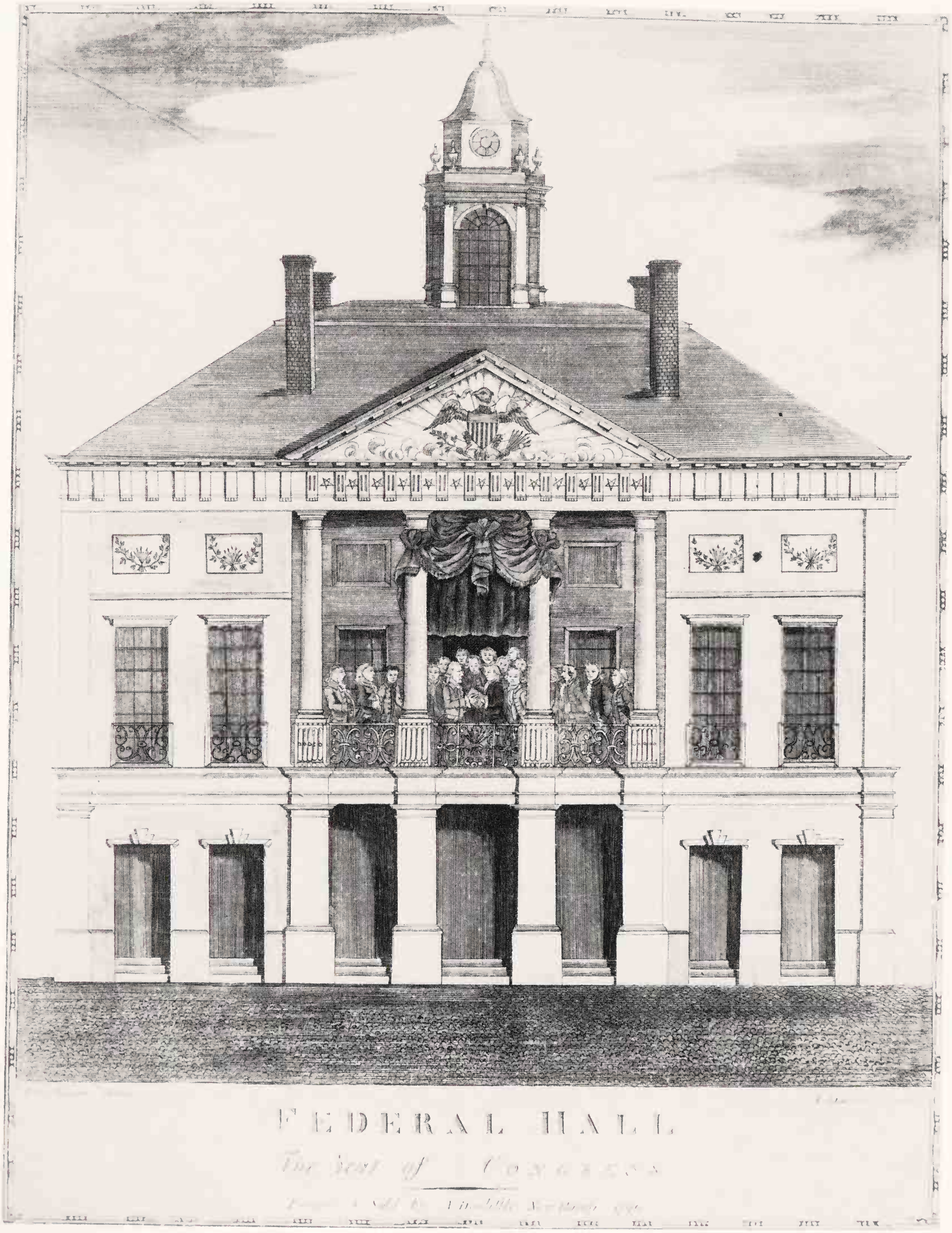
How does the Senate operate?

While the Constitution assigns specific powers and responsibilities to the Senate, it permits the Senate to establish its own rules of order. How the Senate operates on a day-to-day basis is therefore determined by Senate rules and by an even larger body of precedents—the various interpretations of those rules. The Senate's rule-making ability came about as part of the framers' efforts to ensure a true separation of powers among the three branches of the federal government. The Constitution created the Senate as a self-governing body that can judge the election and qualification of its members, censure or expel unruly senators, and keep journals of its proceedings. These "housekeeping" provisions have helped insulate the Senate from executive or judicial oversight over the past two centuries.

Only eight senators answered the roll when the United States Senate first convened in New York City on March 4, 1789. Lacking a quorum, they were unable to elect officers, establish rules, or begin the nation's legislative business. Moreover, until both houses of Congress achieved a quorum they could not count the electoral ballots and notify George Washington of his election as president. Nor would a Supreme Court exist until the Congress could enact a judiciary bill. On March 11, the 8 senators present addressed an appeal to their 12 absent colleagues, emphasizing the "indispensable necessity of putting the Government into immediate operation." But it was not until April 6, when Richard Henry Lee arrived from Virginia, that a quorum of 12 members was assembled. The following day the Senate elected its doorkeeper, created a committee to draft a bill to organize the federal judiciary, and appointed a committee of five to prepare the first set of Senate rules.

Based on the committee's report, on April 16, 1789, the Senate adopted 19 rules, establishing procedures for election of committees, floor debate, voting, and adjourn-

Study for *Webster Replying to Hayne*, George P. A. Healy, circa 1847. (cat. no. 43)

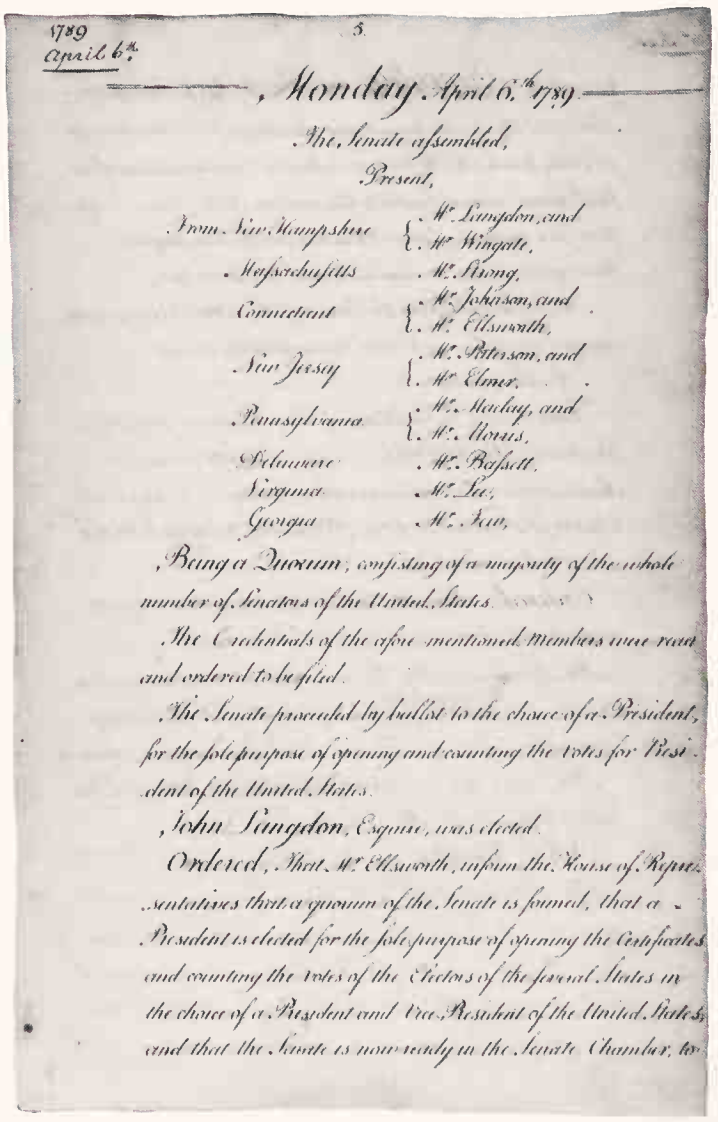


Federal Hall, The Seat of Congress, Amos Doolittle, 1790. The original Senate chamber was located in New York City's Federal Hall, which had been remodeled to provide an elegant meeting place for Congress. This engraving depicts Washington's inauguration on the balcony outside the Senate chamber. (cat. no. 28)

ment. Two days later the Senate added a 20th rule dealing with the introduction of petitions and memorials. Since 1789, there have been only seven general revisions of the Senate's rules, the most recent having occurred in 1979.

During the Senate's first century, the vice president officiated regularly as president of the Senate, and therefore played a considerable role in interpreting the rules and establishing precedents. When Thomas Jefferson became vice president in 1797, he found that because there were so few rules, senators referred all disputes over the rules, or issues which the rules did not cover, to the presiding officer. "This places under the direction of the President [of the Senate] a very extensive field of decision, and one which, irregularly exercised, would have a powerful effect on the proceedings," Jefferson realized. Feeling uncertain in his knowledge of legislative procedure after two decades in executive and diplomatic activities, Jefferson set about collecting and collating the rules and procedures of the Senate and of the British Parliament, whose activities strongly influenced the first American legislators. From this study, Jefferson compiled *A Manual of Parliamentary Practice. For the Use of the Senate of the United States*, for himself and for his successors.

Jefferson concluded that it was less important that rules be rational than that there be rules to go by. What was needed was uniformity of proceedings, subject neither to the caprice of the presiding officer nor to the carping of the members. It was fundamental that "order, decency and regularity, be preserved in a dignified public body." And indeed, the Senate has from its earliest years won notice for the dignity of its debates and proceedings. Alexis de Tocqueville in *Democracy in America* compared the Senate favorably to the "vulgar demeanor" of the House of Representatives, praising the senators as "eloquent advocates, distinguished generals, wise magistrates, and statesmen of note." A decade later, Charles Dickens visited the Capitol and wrote, "the Senate is a dignified and decorous body, and its proceedings are conducted with much gravity and order." The formal parliamentary language and procedures have lasted into the 20th century, as senators continue to address the presiding officer rather than each other, and avoid personal pronouns by identifying both allies and adversaries as "the distinguished senator from" or "my honorable colleague."



1789 April 6th. 3

, Monday, April 6th 1789

The Senate assembled,

Present,

From New Hampshire { Mr. Langdon, and Mr. Wingate,
Massachusetts Mr. King,
Connecticut { Mr. Johnson, and Mr. Ellsworth,
New Jersey { Mr. Paterson, and Mr. Elmer,
Pennsylvania { Mr. Maclay, and Mr. Morris,
Delaware Mr. Bassett,
Virginia Mr. Lee,
Georgia Mr. Few,

, Being a Quorum, consisting of a majority of the whole number of Senators of the United States.

The Credentials of the afore mentioned Members were read and ordered to be filed.

The Senate proceeded by ballot to the choice of a President, for the sole purpose of opening and counting the votes for President of the United States.

, John Langdon, Esquire, was elected.

Ordered, That Mr. Ellsworth, inform the House of Representatives that a quorum of the Senate is formed, that a President is elected for the sole purpose of opening the Certificates and counting the votes of the Electors of the several States in the choice of a President and Vice President of the United States, and that the Senate is now ready in the Senate Chamber, to-

Senate Journal, April 6, 1789. As prescribed by the Constitution, the Senate keeps a journal of its proceedings. Though the Senate was scheduled to meet on March 4, 1789, it was not until April 6 that it secured its first quorum and was able to begin the nation's legislative business. (cat. no. 29)

How does the Senate deal with those who break the rules?

The creation of rules also requires their enforcement. The Constitution gives the Senate authority to govern its own members and to punish those who violate the rules. Absence from the chamber to deny the Senate a quorum to conduct business is one infringement of the rules for which the Senate may constitutionally compel attendance. Senate sergeants at arms have been given the authority to arrest absent senators and accompany them to the floor. Senate rules prohibit senators from imputing to other members any conduct unworthy or unbecoming to a senator, or referring offensively to the home state of another member. Any senator who violates these rules can be called to order by the presiding officer and prohibited from speaking without the permission of the Senate for the remainder of the day.

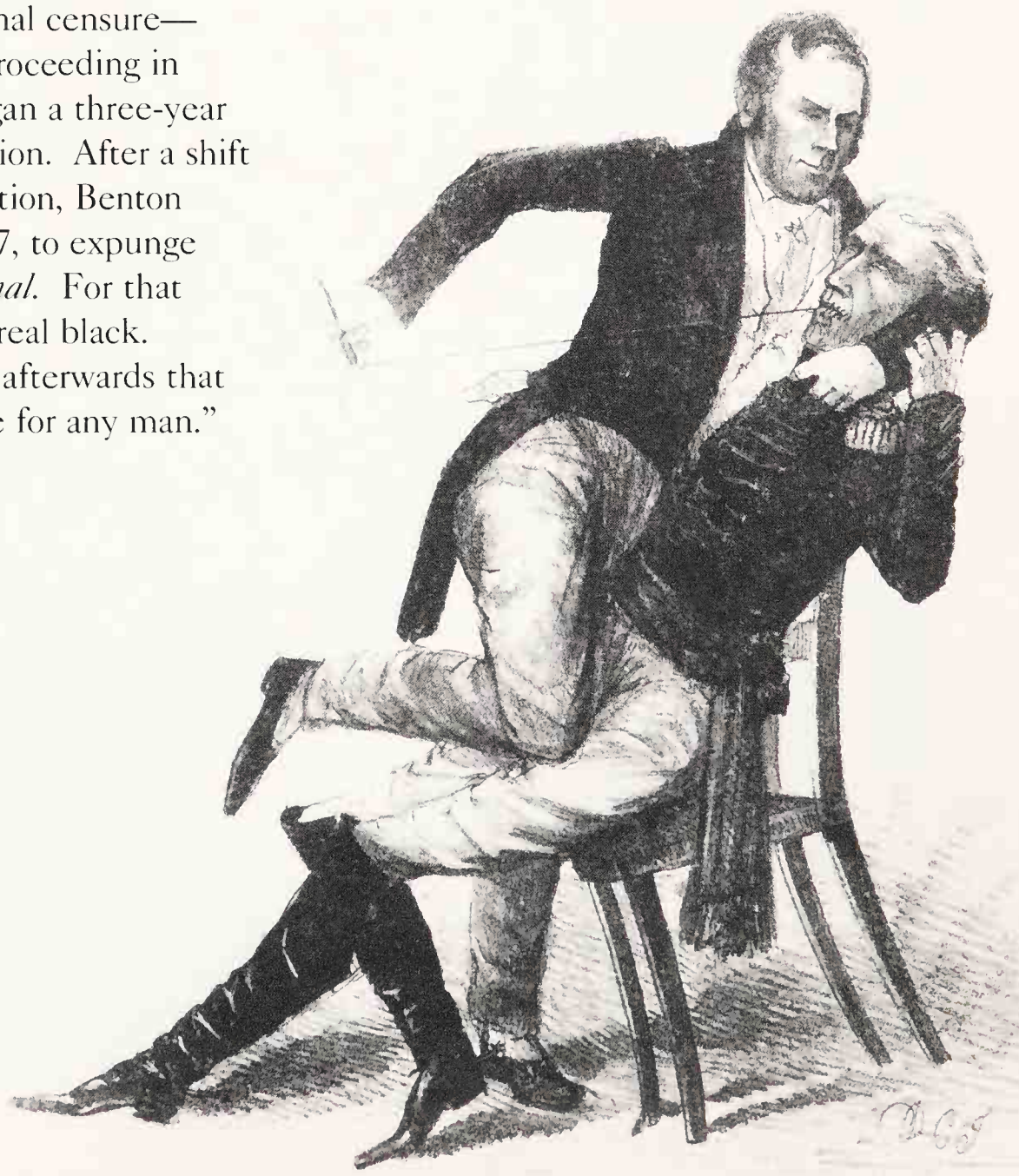
From time to time, senators have been accused of breaking the law, or of otherwise acting in a manner that offends the Senate. Under these circumstances, the Senate has the ability to censure or expel a member. These are severe penalties, applied infrequently; the Senate has generally preferred to allow voters on election day to determine the ethical standards of those who represent them. In two hundred years the Senate has censured only 8 members, and expelled 15—most of the latter withdrew when their states seceded from the Union during the Civil War.

The first major disciplinary case arose in 1797, when President John Adams sent Congress a message accusing Senator William Blount of Tennessee of conspiring to instigate Indian attacks to seize New Orleans from Spain. The Senate found the president's evidence conclusive, and on July 8, 1797, it expelled Blount by a vote of 25 to 1. But when the House voted to impeach Blount, the Senate declined to convict him on the grounds that he was no longer a civil officer of the government, and therefore not impeachable. On January 11, 1799, the Senate dismissed the charges against Blount by a vote of 14 to 11.

The first Senate censure occurred in 1811, after Senator Timothy Pickering of Massachusetts, an unpopular member of the minority Federalist party, referred in debate to secret documents relating to the purchase of the Louisiana territory from France. Senator Samuel Smith of Pennsylvania immediately interrupted to ask whether the Senate had ever made these documents public. It was only then that Pickering realized that he had violated Senate rules by read-

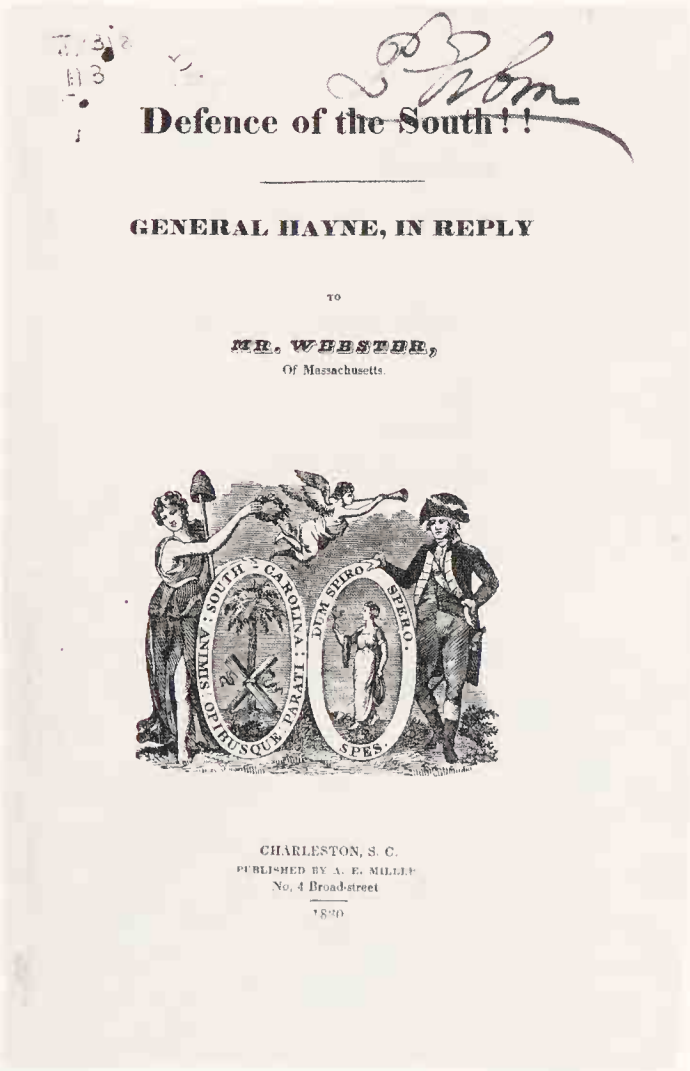
ing a confidential document. The Senate immediately cleared its galleries and proceeded into executive session, where Senator Henry Clay introduced a resolution of censure against Pickering. On January 2, 1811, the resolution passed by an essentially partisan vote of 20 to 7.

Twenty-three years later, Senator Henry Clay once again introduced a resolution of censure, this time against a president of the United States. The Senate was then engaged in a major confrontation with President Andrew Jackson over the rechartering of the Bank of the United States. In December 1833, Clay persuaded the Senate to demand that Jackson turn over certain Treasury Department documents. The president declined, on the grounds that the executive was "a co-ordinate and independent branch of Government equally with the Senate," and that the legislature lacked constitutional authority to make such a request. On March 28, 1834, by a vote of 26 to 20, the Senate censured President Jackson for his act of defiance. The Senate resolved that the president had "assumed upon himself authority and power not conferred by the constitution and laws, but in derogation of both." Senator Thomas Hart Benton of Missouri dismissed this action as "a mere personal censure—having no relation to any business or proceeding in the Senate." Senator Benton then began a three-year campaign to repeal the censure resolution. After a shift in the Senate majority in the next election, Benton won a 24 to 19 vote on January 14, 1837, to expunge Jackson's censure from the *Senate Journal*. For that occasion, Senator Clay dressed in funereal black. He took his defeat sourly, complaining afterwards that "the Senate is no longer a decent place for any man."



Plain Sewing Done Here—Symptoms of a Locked Jaw, David Claypoole Johnston, 1834. This cartoon refers to Senator Henry Clay's successful effort to censure President Andrew Jackson and have his letter of protest omitted from the *Senate Journal*. (cat. no. 34)

How has unlimited debate distinguished the Senate from the House?


Defence of the South!!

GENERAL HAYNE, IN REPLY

TO

MR. WEBSTER,

Of Massachusetts.

SUMUS · SOUTH · CAROLINA · PARATI · DUM SPIRO · SPERO.

OPIHUSQUE · SPES.

CHARLESTON, S. C.
PUBLISHED BY A. E. MILLER
No. 4 Broad-street
1830

Defence of the South!! General Hayne, in Reply to Mr. Webster, of Massachusetts, Robert Hayne, 1830. In delivering this defense of states' rights, Senator Robert Hayne attacked Federalism, defended slavery, and reaffirmed the doctrine of nullification, by which a state could invalidate a law it considered unconstitutional. (cat. no. 39)

Originally, both the Senate and House allowed their members unlimited debate on any issue, but as the House of Representatives grew in membership, it became necessary to place constraints on the length of members' speeches. In 1841, the House limited members to one hour for each speech. One outraged representative complained that "no gentleman can acquit himself well in debate, whether physically or intellectually, while confined in a strait jacket." An appalled Senator Thomas Hart Benton, famous for his own lengthy speeches, judged this rule "the largest limitation upon freedom of debate which any deliberative assembly has ever imposed upon itself." However, even one hour proved too time-consuming for the House, which in 1847 further restricted debate with a "five-minute rule."

By contrast, the Senate continued to tolerate, even glorify, unlimited debate. Not until 1917 did the Senate adopt its first cloture rule, designed to cut off filibusters. But even this rule proved hard to apply. For years, many senators refused to vote for cloture on principle, making it impossible to obtain the necessary two-thirds vote. Later this was changed to a three-fifths vote. Yet as a delaying tactic, the filibuster remains very much alive within the Senate.

Lengthy debates focus national attention upon issues, articulating the details of the issue for the press and the public, and rallying forces on either side. Such debates eventually help in finding some common ground for compromise or lead to defeat of the measure through protracted delay. Generally these debates have involved a number of senators, but the most famous debate of the early 19th century took place between two senators, Daniel Webster and Robert Y. Hayne.

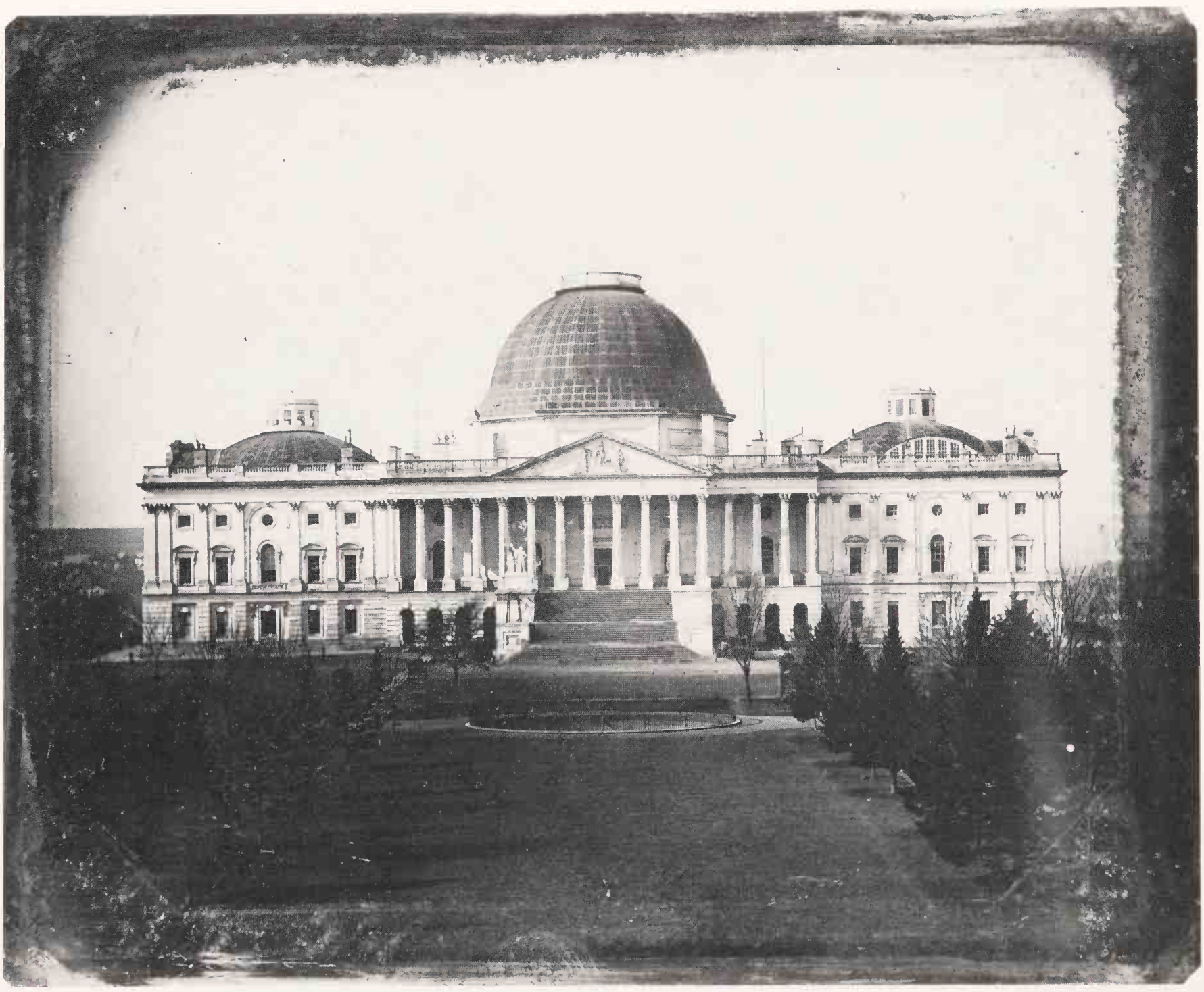
On January 19, 1830, Senator Hayne of South Carolina rose in the Senate chamber to denounce the northeastern region of the United States for pursuing policies, specifically high tariffs, to the detriment of the South and West. The following day, Senator Webster of Massachusetts delivered a brief response in which he deplored the tendency of some southerners to speak of the Union in terms of disparagement. "The Union is to be preserved while it suits local and temporary purposes to preserve it," Webster observed, "and to be sundered whenever it shall be found to thwart such purposes." Senator Hayne accepted Webster's challenge, letting it be known that he intended to reply the next day. The following morning, those onlookers who crowded the Senate galleries were rewarded by

Hayne's passionate, often sarcastic assault upon the North and his defense of the theory of state nullification of offensive federal laws.

On January 26 and 27, Webster delivered his famous reply to Hayne. "We do not impose geographical limits to our patriotic feeling," he insisted. He went on to exclaim that every state had an interest in the development of the entire nation, and senators must rise above local and regional narrow-mindedness. The Constitution is the supreme law of the land, and any doctrine that allows states to override the Constitution would surely lead to civil war and a land drenched with "fraternal blood," he warned. The motto should not be "Liberty first, and Union afterwards," Webster concluded his oration, but "Liberty and Union, now and forever, one and inseparable!"

The Webster-Hayne debate made a national hero of Daniel Webster, but it failed to resolve the tensions between the North and South. For the next two

The Capitol, attributed to John Plumbe, Jr., circa 1846. This is the earliest known photographic image of the Capitol, taken about 1846. The daguerreotype shows the copper-sheathed wooden dome designed by Charles Bulfinch. (cat. no. 49)



decades, members of the Senate fought over economic and territorial issues that barely masked the true source of tension, the existence of a slave labor system in the southern states and its spread into the western territories. These issues became inescapable after the American victory in the Mexican War added a vast new territory from Texas to California. In 1850, when the Senate debated the organization of this territory, many northerners took the attitude that slavery was a crime against humanity, while southern defenders argued that owning slaves was a fundamental right protected by the Constitution. Moreover, southerners demanded that they had the right to carry slavery into any new territory acquired by the United States.

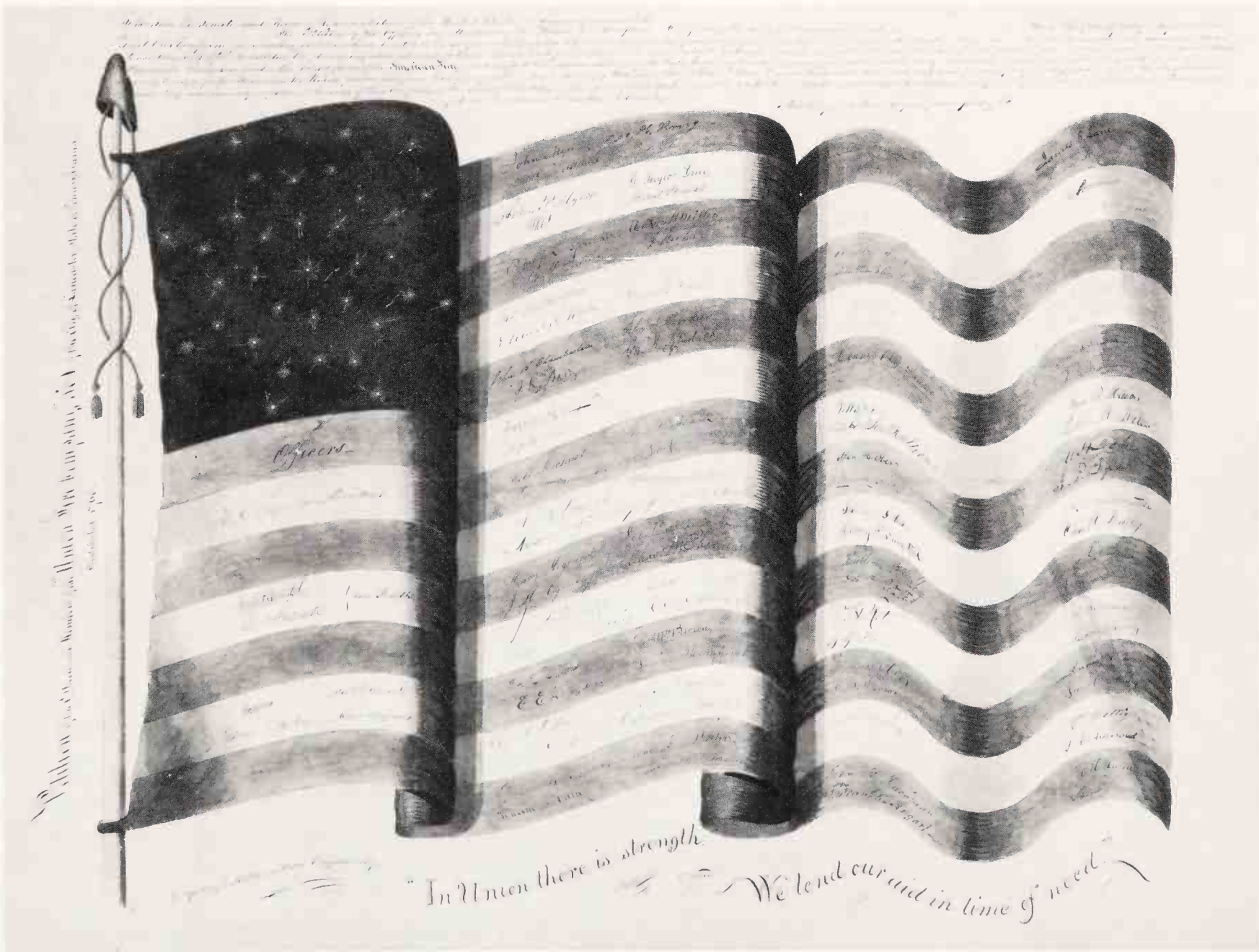
Senator Henry Clay of Kentucky led the effort to achieve a compromise between the sections. He introduced an omnibus bill to organize the western

Henry Clay, Thomas Ball, 1858. "I don't like Clay," said his frequent adversary, John C. Calhoun. "He is a bad man, an impostor, a creator of wicked schemes. I wouldn't speak to him, but, by God! I love him." (cat. no. 38)

Daniel Webster, Thomas Ball, 1853. "The God-like Daniel," a 19th century journalist wrote, "had broad shoulders, a deep chest, and a large frame. I have seen men taller than Webster; I have seen men larger; but I never saw anyone who looked so large." (cat. no. 36)

territories, balancing the admission of California as a free state with a strong new fugitive slave act requiring the North to return slaves who had escaped to freedom. Clay personally appealed to Daniel Webster for support, and on the 7th of March, 1850, Webster delivered one of his most important and controversial Senate addresses. He began: "I wish to speak to-day not as a Massachusetts man, nor as a Northern man, but as an American, and a member of the Senate of the United States." Webster continued: "It is fortunate that there is a Senate of the United States; a body not yet moved from its propriety, not lost to a just sense of its own dignity, and its own high responsibilities, and a body to which the country looks with confidence, for wise, moderate, patriotic, and healing counsels." Webster's endorsement of the compromise, including its fugitive slave provisions, helped win its eventual enactment, to the great detriment of his standing among northern anti-slavery advocates. For another decade, at least, civil war had been avoided.

Petition in support of the Crittenden Compromise, February 6, 1861. The last effort at compromise before the Civil War was crafted by Senator John Crittenden of Kentucky. Provisions included ensuring the existence of slavery unless prohibited by state law, and extending the Missouri Compromise line dividing free and slave states to the Pacific Ocean. (cat. no. 54)



What is the Senate's role in presidential elections?

Campaign memorabilia from the Hayes and Tilden presidential election, 1876. (cat. no. 56)

During the deliberations of the Constitutional Convention, some delegates proposed that the Congress select the president of the United States. Had this plan been adopted, a more parliamentary form of government might have evolved. Instead, the framers chose to separate the powers of the executive and legislature, and established an electoral college for presidential elections. Under this system, voters in each state would elect electors, who in turn would cast ballots for president and vice president. Under the original system, the individual receiving the highest number of ballots became president, and the second-highest became vice president. In 1801, however, Thomas Jefferson and Aaron Burr received an equal number of votes. It then fell to the House of Representatives to break the tie and, after 36 ballots, Jefferson was elected president and Burr vice president.

To prevent a recurrence of this predicament, the 12th Amendment was added to the Constitution, calling for electors to cast separate ballots for president and vice president. It further provided that whenever candidates failed to achieve a majority in the electoral college, the House would select the president and the Senate the vice president. At this time, only the House of Representatives was directly elected by the voters, senators still being chosen by their state legislatures; therefore, selection of the president by the House appeared more democratic. Moreover, the Senate was identified with the vice president, who served as its presiding officer. Only once, in 1837, has a vice presidential race required the Senate to act. At that time, electors from Virginia cast their ballots for the Democratic candidate for president, Martin Van Buren, but refused to support his running mate, Richard M. Johnson, denying Johnson the majority by one vote. The Senate then voted 33 to 16 in favor of Johnson over his closest opponent, Francis Granger.

The most contentious presidential election occurred in 1876. Early returns indicated that the Democratic candidate, Samuel J. Tilden, had defeated Republican Rutherford B. Hayes. Although Tilden led in the popular vote, the electoral college vote in four southern states remained uncertain. Both parties claimed to have won a majority of the votes in these states, and two sets of electors presented certificates of election. As a result of this stalemate, the Senate and House established an Electoral Commission of 15 members to hear testimony and weigh evidence. The commission was evenly divided by party, with one

politically independent member. However, when the independent commissioner disqualified himself, his successor, a Republican senator, tipped the balance in favor of the Republican candidate. By a strict party vote of eight to seven, the commission awarded every disputed electoral ballot to Hayes. The Democratic majority in the House rejected the commission's actions, but the Republican Senate upheld them, and Hayes was inaugurated president. To prevent a recurrence, in 1887 the Congress enacted the Electoral College Act, which gave authority to the states to determine the legality of their own electors, and required a majority vote in both the Senate and House to reject any electoral ballots.

Although not called upon during the past century to make a determination in a disputed election, the Senate continues every four years to receive the electoral ballots, which its members escort in procession to the House chamber. There in a joint meeting of Congress, the president of the Senate (the vice president or the president pro tempore) counts the ballots and formally declares the winning candidates for president and vice president of the United States.

The Electoral Commission of 1877, Cornelia A. Fassett, 1879. The Supreme Court chamber in the Capitol is shown crowded with members of the electoral commission, senators, representatives, lawyers, journalists, and a "who's who" of Washington society. The artist depicted herself in the painting (bottom center) sketching. (cat. no. 62)

Article II, Section 2

The President . . . shall have Power, by and with the Advice and Consent of the Senate, to make Treaties, provided two thirds of the Senators present concur.

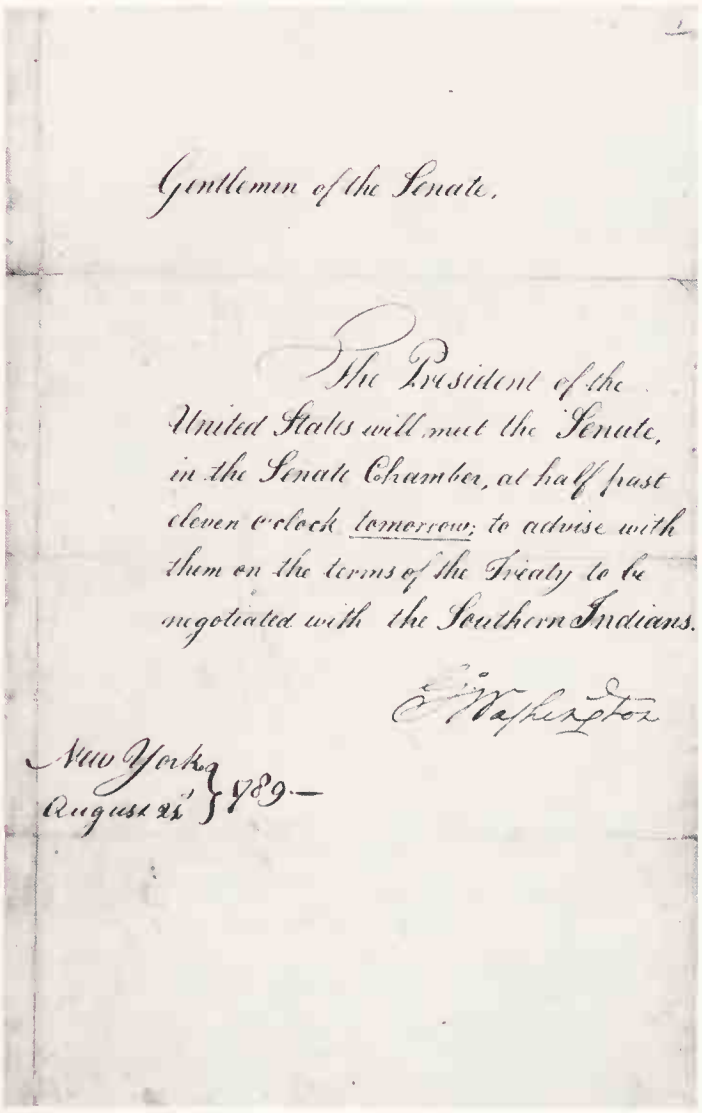
What are the Senate's treaty-making powers?

The Senate's responsibility to advise and consent on the ratification of treaties has given it a strong voice in the making of American foreign policy. Under the Articles of Confederation, the Congress had made treaties, and the Constitutional Convention initially considered assigning similar authority to the Senate. If the Senate had power to make war, it was reasoned it should also have the power to make peace. But after the delegates created an independent chief executive, they shifted treaty-making powers to the presidency, with the stipulation that a two-thirds vote of all senators present was necessary for treaty ratification. Pennsylvania's James Wilson predicted that a two-thirds vote would give a minority of senators the ability to control the will of the majority, a sentiment later echoed by many presidents whose treaties were significantly amended or defeated because of the two-thirds provision.

Recalling the anger that many southerners and westerners had felt over the Jay-Gardoqui Treaty of 1786, which would have conceded American navigation rights on the Mississippi to Spain, delegates to the Convention were acutely sensitive to the need for safeguards. Some delegates wanted to give the House a role in treaty ratification, fearing the Senate "more likely to be corrupted by an enemy than the whole Legislature." Others argued that treaty debates required a degree of secrecy that would be easier to achieve in the smaller Senate. In *The Federalist*, John Jay pointed out that since all the states were equally represented in the Senate, "they will all have an equal degree of influence." In response to fears that a majority might ratify treaties disadvantageous to one part of the country, Jay argued that "the whole can only be promoted by advancing the good of each of the parts."

Exchange copy of the convention between the United States of America and the French Republic (Louisiana Purchase), April 30, 1803. (cat. no. 81)

How does the Senate offer "advice and consent" in treaty making?


Gentlemen of the Senate,

The President of the United States will meet the Senate in the Senate Chamber, at half past eleven o'clock tomorrow, to advise with them on the terms of the Treaty to be negotiated with the Southern Indians.

Go. Washington

New York August 22 1789.

Message from President George Washington, informing the Senate that he would meet to advise with them regarding the treaty with the southern Indians, August 22, 1789. In appearing before the Senate to seek advice and consent on his first treaty, President Washington was offended by the Senate's decision to refer his questions to committee. "This defeats every purpose of my coming here!" he is said to have exclaimed. (cat. no. 67)

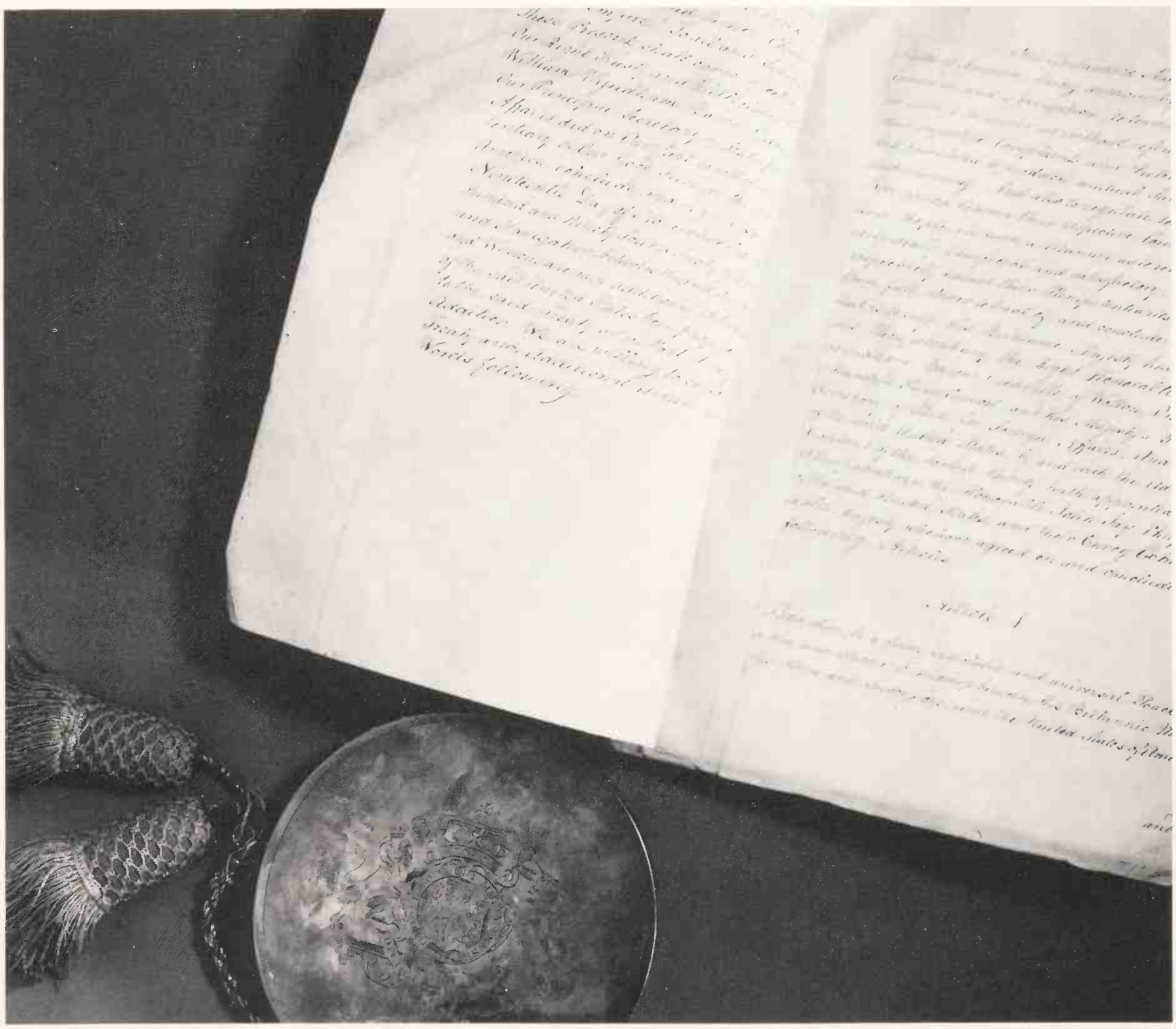
Having shared treaty powers between the president and the Senate, the Constitution did not elaborate on how the two branches might work together. The Senate could give its "consent" by casting a vote, but in what manner could it offer "advice"? Some senators wanted the president to come in person to the Senate chamber to present all nominations and treaties. President Washington demurred on nominations, believing they would be too numerous, but he was willing to attend Senate sessions dealing with treaties. On Saturday, August 22, 1789, the president and Secretary of War Henry Knox appeared in the Senate to pose a series of questions regarding a treaty with the Cherokee, Chickasaw, Choctaw, and Creek Indians. Rather than debate the issue and render their advice in the shadow of the first president's "personal authority and presence," the Senate voted to refer the questions to committee for examination. "This defeats every purpose of my coming here!" Washington was heard to utter. Although he returned on Monday to receive the Senate's advice, and incorporated some of their changes, Washington never again attempted to personally participate in treaty debates.

The Constitution did not specify whether treaties should be debated in public or closed session, although the framers had expected that some secrecy would be necessary to carry out international relations. From 1789 to 1794, the Senate conducted all of its business behind closed doors, without even a gallery for the public or press. Even after the Senate opened its doors during legislative debates, it continued to discuss treaties and nominations in secret until 1929.

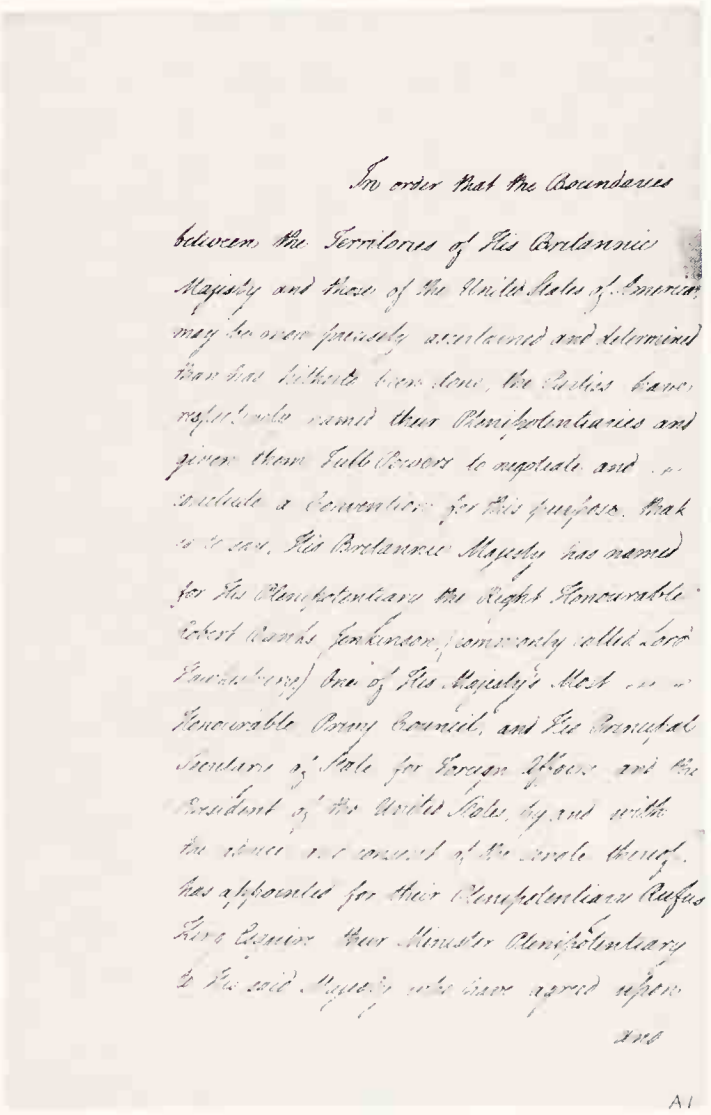
After receiving the highly controversial Jay Treaty in 1795—a treaty which anti-Federalists felt made too many concessions to Great Britain—the Senate imposed an injunction of secrecy on all of its members. The injunction was lifted after two-thirds of the senators ratified the treaty, but believing that only the president should release a treaty to the public, the Federalist majority voted to bar individual members from distributing copies. An opponent of the treaty, Senator Stevens Mason of Virginia, ignored the ban and provided a copy to the Philadelphia *Aurora*. Despite the injunction, the Senate took no disciplinary action against him. Although Senator Mason acted in the spirit that the public had a right to know what agreements its government was making, his action raised valid questions about the Senate's ability to protect secret information.

John Jay, Cornelius Tiebout, 1795. President Washington's nomination of John Jay to negotiate a treaty with Great Britain proved highly controversial, as Jay was chief justice of the Supreme Court at the time. (cat. no. 71)

Exchange copy of the Jay Treaty between the United States and Great Britain, October 28, 1795. The Jay Treaty, which addressed a variety of diplomatic issues with Great Britain, was one of the most important—and controversial—treaties ratified by the early Senate. (cat. no. 72)



Can the Senate change a treaty?



In order that the Boundaries
between the Territories of His Britannic
Majesty and those of the United States of America
may be more precisely ascertained and determined
than has hitherto been done, the Parties have
respectively named their Plenipotentiaries and
given them Full Powers to negotiate and
conclude a Convention for this purpose. That
is to say, His Britannic Majesty has named
for His Plenipotentiary the Right Honourable
Robert Banks Jenkinson, commonly called Lord
Hawkesbury, One of His Majesty's Most
Honourable Privy Council, and His Principal
Secretary of State for Foreign Affairs and the
President of the United States, by and with
the advice and consent of the Senate thereof,
has appointed for their Plenipotentiary Rufus
King Esquire their Minister Plenipotentiary
to His said Majesty who have agreed upon
the

A1

King-Hawkesbury Convention with Great Britain, May 12, 1803. The Senate may alter a treaty by means of amendments, reservations, and understandings. The first treaty to be rejected as a result of Senate changes was the King-Hawkesbury Convention in 1803. (cat. no. 73)

The Senate's right to consent to treaties carries with it the right to withhold its consent. Over the past two hundred years the Senate has ratified some fifteen hundred treaties, approximately 90 percent of the total it received. Most of those not ratified were withdrawn or never acted upon, and only 20 treaties have been rejected by vote. Despite this small number of outright rejections, the Senate's exercise of its power to alter or reject caused Secretary of State John Hay to compare a treaty entering the Senate to a bull going into an arena: "No one can say just how or when the final blow will fall, but one thing is certain—it will never leave the arena alive."

Far more commonly, the Senate has altered treaties rather than rejected them outright, a practice that might be called "revise and consent." For many reasons of domestic as well as international policy, senators can offer amendments, reservations, and understandings to treaties to remove or modify any troublesome portion. Amendments make actual changes in the language of the treaty; reservations indicate a substantive change in interpretation, involving either increased or reduced obligations; and understandings clarify relatively minor aspects of the treaty's implementation. In 1795, for instance, the Senate gave its consent to the Jay Treaty only with the understanding that provisions regarding trade would be renegotiated. In other cases, specific changes in the treaty's language were necessary to win a two-thirds vote of approval in the Senate. However, such changes may not be acceptable to the other nations involved, and may therefore cause abandonment of the treaty.

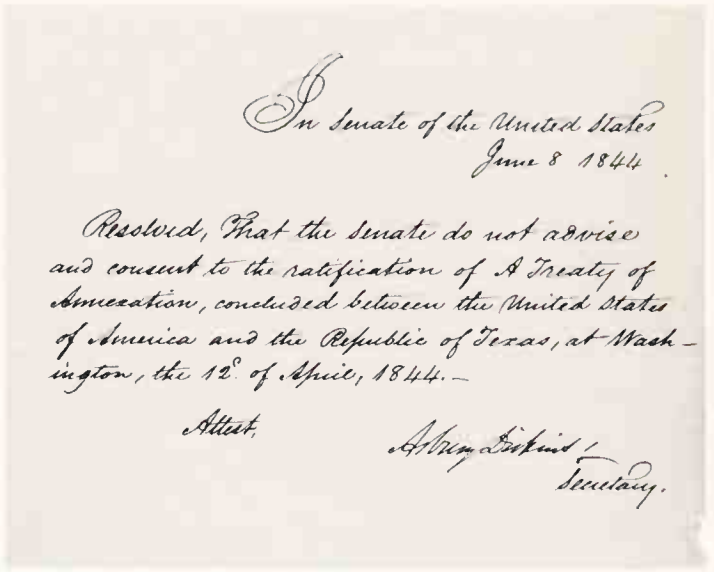
The British government took a dim view of the Senate's vote to strike out one article of the King-Hawkesbury Convention of 1803, which senators feared might diminish rights the United States had acquired by the Louisiana Purchase. As the American minister, James Monroe, reported, the British secretary of state for foreign affairs "censured in strong terms the practice into which we had fallen of ratifying treaties, with exceptions to parts of them, a practice which he termed new, unauthorized and not to be sanctioned." Although Monroe cited earlier precedents for altered agreements, the British would not acquiesce, making the King-Hawkesbury Convention the first treaty rejected as a result of Senate changes.

The emotional issue of slavery entered into several treaty debates during the antebellum years. In 1824, slavery advocates in the Senate deliberately

piled amendments onto a treaty with Great Britain that dealt with the suppression of the slave trade, to force the British to reject it. The following year, the Senate received a similar treaty with Colombia, aimed against the slave trade, but this time it chose to reject the treaty by a vote of 40 to 0. This vote marked the Senate's first outright defeat of a treaty.

Two decades later, in April 1844, President John Tyler sent the Senate a treaty of annexation of the Republic of Texas. Although expansionism was a popular issue at the time, Senator Thomas Hart Benton argued that annexation would involve the United States in Texas's war with Mexico, and that the treaty could not take the place of a formal declaration of war. President Tyler's popularity had reached its nadir in the Senate, which was rejecting wholesale his cabinet and Supreme Court nominees, so it came as little surprise when the Senate voted 35 to 16 to reject the Texas treaty. But the pressure to incorporate Texas into the United States did not end. In the November election, voters chose James K. Polk as their president; during his candidacy he openly advocated the annexation of Texas. Meanwhile, outgoing President Tyler had taken the unprecedented step of submitting the question of annexation to the House of Representatives as a joint resolution rather than a treaty. When the House passed the resolution by a decisive vote, the Senate reluctantly gave its approval. The United States annexed Texas, an action which, as Senator Benton had predicted, soon led to war with Mexico.

The Supreme Court has consistently upheld the Senate's right to alter treaties. In the 1869 case of *Haver v. Yaker*, the Court pointed out that "in this country, a treaty is something more than a contract, for the Federal Constitution declares it to be the law of the land. If so, before it can become a law, the Senate in whom rests authority to ratify it, must agree to it. But the Senate are not required to adopt or reject it as a whole, but may modify or amend it."

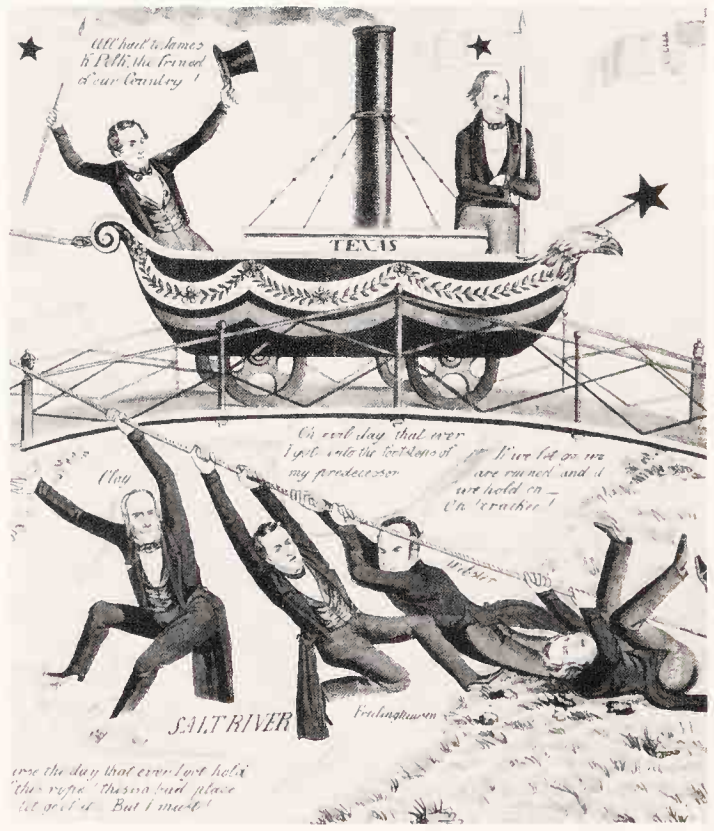


In Senate of the United States
June 8 1844.

Resolved, That the Senate do not advise and consent to the ratification of A Treaty of Annexation, concluded between the United States of America and the Republic of Texas, at Washington, the 12th of April, 1844.—

Attest,
A Dickins
Secretary.

Letter from the Senate stating that the treaty proposing the annexation of Texas was rejected, June 8, 1844. The treaty was defeated by a vote of 35 to 16. (cat. no. 89)



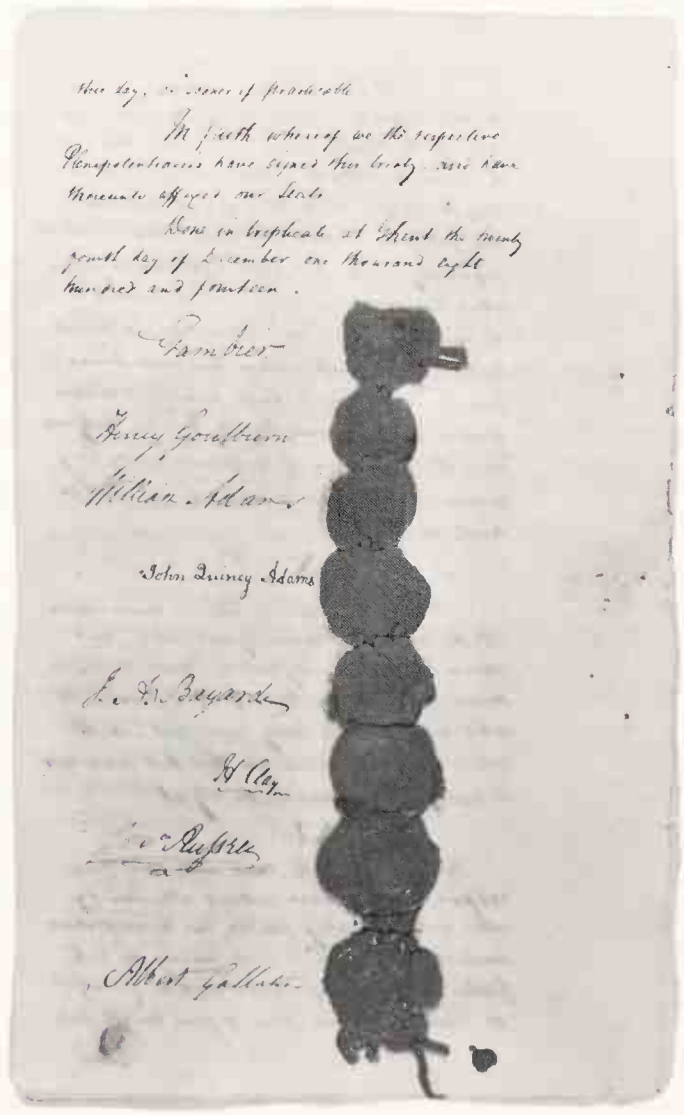
Texas Coming In, (detail), H. Bucholaer, 1844. Whig senators were forced to go along with the annexation of Texas after Democrats gained both the presidency and majorities in the Senate and House. (cat. no. 90)

What role have treaties played in American history?

John Quincy Adams, appointed to the American commission to negotiate the Treaty of Ghent, Pieter Van Huffel, 1815. Much of the credit for the Treaty of Ghent goes to former senator John Quincy Adams, who headed the delegation of American peace commissioners. (cat. no. 86)

The intensity of the debate over the annexation of Texas, and the defeat of treaties dealing with the suppression of the slave trade, indicates the broad significance of the treaty-making powers in American history. Treaties affect issues of war and peace, national pride, and everyday life at home. In the early years of the American republic, treaties played an especially significant role in the transfer of territories, far more so than the framers of the Constitution had anticipated.

In 1803, the French foreign minister surprised the American minister to France with an offer to sell the vast Louisiana territory, a transaction that would double the size of the existing United States. This arrangement was quickly worked into a treaty. As delighted as President Thomas Jefferson was with this offer, he felt troubled by portions of the treaty that would incorporate the territory into the Union and make its population citizens of the United States. Jefferson knew that under the Constitution only Congress had the right to admit new states and to admit aliens as citizens. Committed to a strict construction of the Constitution, Jefferson at first considered adoption of a constitutional amendment permitting the purchase of the territory, but he realized that this process would take so long that it could

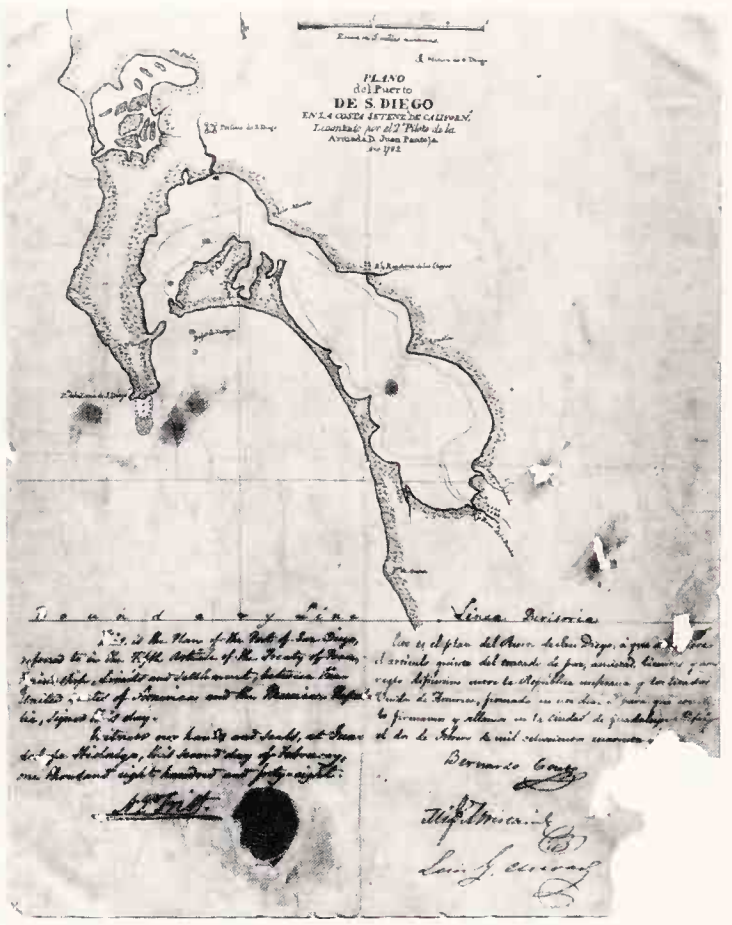


Treaty of peace and amity between His Britannic Majesty and the United States of America (Treaty of Ghent), December 24, 1814. To reach a peace accord in the War of 1812, President James Madison dispatched a five member negotiating team. At Ghent, they settled on a treaty which made no reference to the original issues of contention; nevertheless, it ended an extremely unpopular war. (cat. no. 85)

jeopardize the treaty. Finally, he relented and submitted the treaty for Senate ratification. Accepting the ends as justification for the means, the Senate approved the treaty by a vote of 26 to 6.

The War of 1812 saw serious reverses for American forces on land and sea, including the sacking of the city of Washington and burning of the Capitol by British troops. To reach a peace accord with the British, President James Madison dispatched a high-level negotiating team that included John Quincy Adams and Speaker of the House Henry Clay. At Ghent, they arrived at a treaty that reestablished peace between the nations without resolving the issues that had originally sent them to war, notably British impressment of American seamen and American neutrality rights. Although it left much to be desired, the treaty ended an extremely unpopular war. Another impetus toward ratification was the news that American forces under General Andrew Jackson had defeated the British at New Orleans—two weeks after the Treaty of Ghent had been signed. News of the victory caused celebration throughout the United States and brought about a unanimous vote in the Senate to ratify the treaty.

By contrast, United States military campaigns from 1846 to 1848 thoroughly defeated Mexico and opened the way for acquisition of western territories even larger than the Louisiana Purchase. President James K. Polk had recalled his chief negotiator in Mexico, Nicholas Trist, and was therefore surprised when word arrived that Trist had reached an agreement with the Mexican government. Although Polk had reservations about the unauthorized treaty, believing that recent military victories could have won even greater territorial concessions from Mexico, he also recognized that should he reject the peace treaty he could not count on further congressional appropriations to continue the war. Polk therefore submitted the treaty to the Senate, which ratified it by a vote of 38 to 14. It was hardly a poor bargain. Under the terms of the Treaty of Guadalupe Hidalgo, the United States purchased for $15 million more than a half million square miles of territory from Mexico, comprising what are today the states of California, Arizona, New Mexico, Nevada, Utah, Wyoming, and Colorado. Eventually, however, the price was greater, for the unresolved issue of whether slavery could spread into the new territories was a major factor in America's Civil War.



Map of the port of San Diego, 1782. President James K. Polk's envoy to Mexico, Nicholas Trist, used this map in 1847 to negotiate part of the Treaty of Guadalupe Hidalgo. (cat. no. 91)

Article II, Section 2

The President . . . shall nominate, and by and with the Advice and Consent of the Senate, shall appoint Ambassadors, other public Ministers and Consuls, Judges of the supreme Court, and all other Officers of the United States, whose Appointments are not herein otherwise provided for, and which shall be established by Law.

What is the Senate's role in nominations?

Article II, Section 2 of the Constitution embodies a classic example of our constitutional division of powers. In order to lead, the president is given the authority to appoint cabinet secretaries to carry out administration policy, ambassadors to represent the nation abroad, and judges to interpret the laws and actions of the government. But to prevent the president and presidential appointees from exercising arbitrary power, the Senate has the power to approve or reject these nominations. The House of Representatives role is limited to passing legislation that determines which lower offices the president may fill without senatorial confirmation.

Delegates to the Constitutional Convention debated allowing the Senate to appoint ambassadors and judges. (Some felt that the Senate should choose the president as well.) Senator Gouverneur Morris of New York argued strongly against senatorial appointment power, on the grounds that a legislative body was too numerous to make appointments. He also objected to the Senate serving as a court of impeachment to try the same appointees it had confirmed. Morris convinced his colleagues with the argument that as the president was to nominate, there would be responsibility, and as the Senate was to concur, there would be security.

Once the Constitution was adopted, many questions remained concerning implementation, including its provisions for the confirmation of nominations. On June 15, 1789, President George Washington submitted his first nomination, that of William Short, to take charge of American affairs in France after the previous minister, Thomas Jefferson, returned to America to become secretary of state. Some senators had expected the president to appear in person to seek their advice as well as their consent, and were disappointed when Washington simply submitted the nomination in writing.

Washington and His Cabinet, Currier & Ives lithography company, 1876. (cat. no. 97)

the Senate.

nominate for the Department of the
United States –
ander Hamilton (of New York) Secretary.
holas Eveleigh (of S. Carolina) Comptroller.
nuel Meridith (of Pensylvania) Treasurer.
iver Wolcott Junr. (of Connecticut) Auditor.
Joseph Nourse (in office) Register.

he Department of war –
Henry Knox.

Judge in the Western Territory, in place of
illiam Barton who declines the appointment.
George Turner.

For

In August, the Senate considered a motion to discuss nominations only in the president's presence. A committee of three senators then took the proposal to President Washington. But Washington thought it would create an awkward situation for both himself and the Senate if he were present while his nominations were debated. He reasoned that "as the President has a right to nominate without assigning his reasons, so has the Senate a right to dissent without giving theirs." Accepting this logic, the Senate agreed to receive Washington's written nominations, including those for the first cabinet secretaries, which the Senate received on September 11, 1789.

During the first Congress, and for most of its first century, the entire Senate heard all nominations as a committee of the whole, in executive session. Nominations were referred to committee only if the candidate was unknown or if there were some charges pending against him. By 1868, the executive clerk began routinely referring nominations to the appropriate standing committees for initial screening, before they were debated and voted upon by the entire Senate. Until 1929, the Senate conducted its executive sessions behind closed doors, barring both the public and the press, on the grounds that it could more easily discuss the individual merits of nominees when not on public display.

William Short, John Sartain, 1840. On June 15, 1789, President Washington submitted his first nomination, appointing William Short as *chargé d'affaires* to France. (cat. no. 95)

Opposite: George Washington's cabinet nominations, September 11, 1789, and court nominations, September 24, 1789. In selecting his cabinet, Washington first submitted the nominations of Alexander Hamilton as secretary of the treasury and Henry Knox as secretary of war. Washington appointed John Jay the first chief justice of the Supreme Court. (cat. nos. 98 and 99)

Why does the Senate reject some nominations?

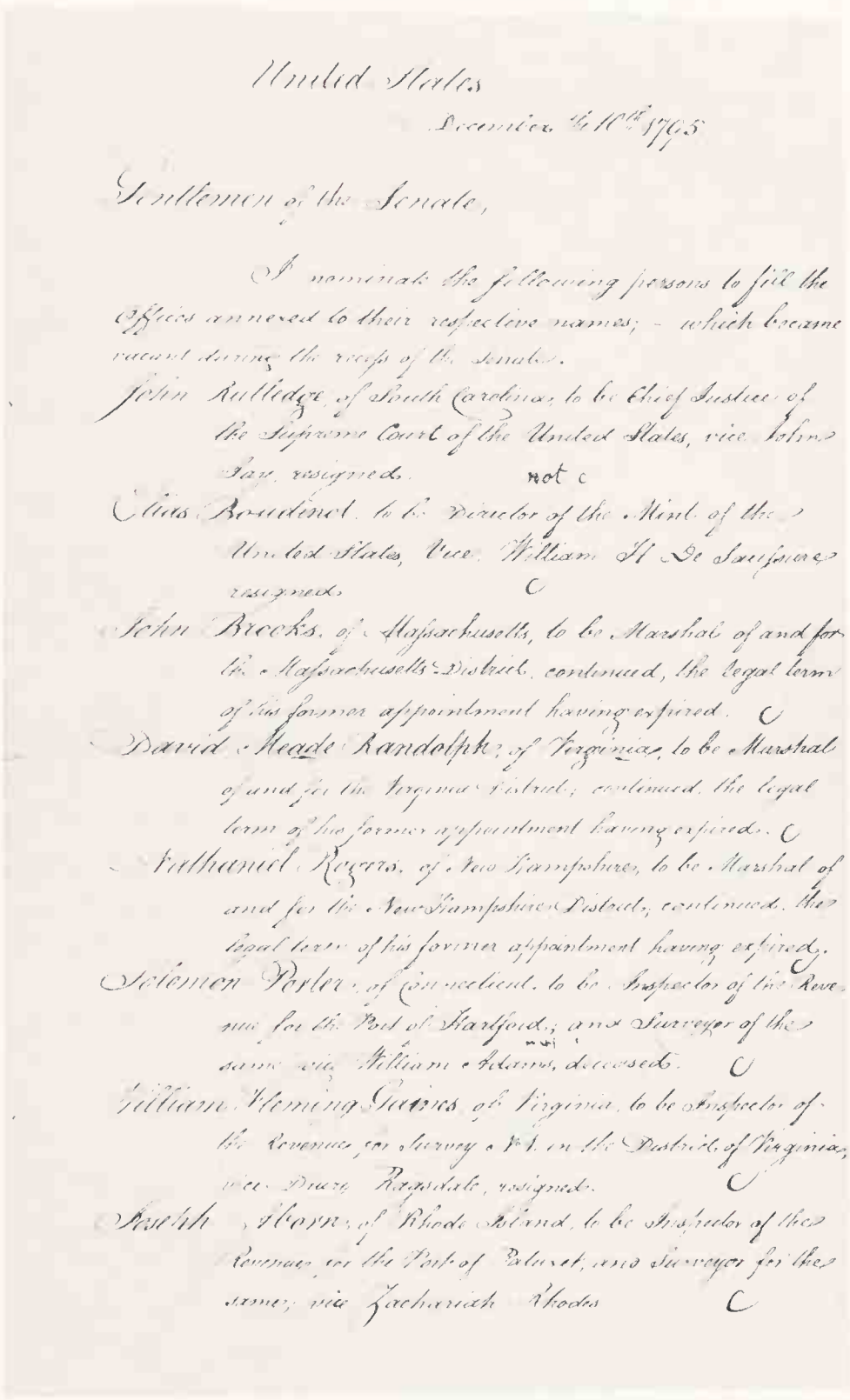
On August 3, 1789, President Washington submitted to the Senate a long list of nominees for collectors, naval officers, and surveyors for various ports. All but one of these nominees won confirmation. The sole exception, Benjamin Fishbourn, was rejected as naval officer of the port of Savannah. Because the Senate at that time conducted its business behind closed doors and kept only the barest minutes, the reasons for Fishbourn's defeat are unknown.

One school of thought, later expressed by Senator Thomas Hart Benton more than a half century later, was that Fishbourn had been defeated "simply because the Georgia Senators preferred another." Thus Fishbourn's defeat was the first application of "senatorial courtesy." Other senators declined to vote for someone opposed by the senators from the nominee's home state. "Senatorial courtesy" is a reciprocal action, taken by a legislator as insurance that his colleagues will in turn reject nominees from his own state if he finds them objectionable. Due to "senatorial courtesy," senators have come to exercise considerable influence over presidential appointments of federal judges and United States attorneys in their states.

The Senate approved most of Washington's nominees, however, and generally rejected only those whom it considered unfit. Most notable was its failure to confirm Washington's choice of John Rutledge to be chief justice of the Supreme Court of the United States in 1795. Washington had little cause for concern over his nominee's prospects, since the South Carolinian had been an author of the Constitution and had served as associate justice of the Supreme Court since 1789. But two weeks after his nomination, Rutledge made a speech vehemently critical of the Jay Treaty with Great Britain (which had been negotiated by the previous chief justice, John Jay). This intemperate speech raised serious doubts about Rutledge's judgment in the minds of Federalist senators associated with Washington's administration and they turned him down by a vote of 14 to 10. Senator Jacob Read, who supported Rutledge, later explained that other senators had thought it unwise "to put a man in the first Seat of Justice in the Union who had headed a Town meeting & urged & excited the Citizens to do what would in a very little time if pursued totally destroy all government & defeat our representative System entirely."

John Rutledge was the first of 28 Supreme Court nominees who were not confirmed over the next two centuries. They constitute almost one-fifth of all

Supreme Court nominations, a far higher percentage than that of cabinet member rejections. This reflects the senatorial attitude that while the cabinet should be generally composed of those individuals the president wants, the Supreme Court is an independent branch of the government not responsible to the President. The Senate has frequently rejected "lame-duck" appointments to the Supreme Court, made during a president's last months in office. And it has turned down otherwise qualified individuals whose views, like those of John Rutledge, the majority found objectionable.



United States
December 10th 1795

Gentlemen of the Senate,

I nominate the following persons to fill the Offices annexed to their respective names, - which became vacant during the recess of the Senate.

John Rutledge of South Carolina to be Chief Justice of the Supreme Court of the United States, vice John Jay, resigned. not c

Elias Boudinot to be Director of the Mint of the United States, vice William H. De Saussure resigned. C

John Brooks of Massachusetts, to be Marshal of and for the Massachusetts District, continued, the legal term of his former appointment having expired. C

David Meade Randolph, of Virginia, to be Marshal of and for the Virginia District, continued, the legal term of his former appointment having expired. C

Nathaniel Rogers, of New Hampshire, to be Marshal of and for the New Hampshire District, continued, the legal term of his former appointment having expired.

Solomon Porter, of Connecticut, to be Inspector of the Revenue for the Port of Hartford, and Surveyor of the same, vice William Adams, deceased. C

William Fleming Grimes of Virginia, to be Inspector of the Revenue for Surveys No. 1. in the District of Virginia, vice Drury Ragsdale, resigned. C

Joseph Thorn, of Rhode Island, to be Inspector of the Revenue for the Port of Bristol, and Surveyor for the same, vice Zachariah Rhodes C

Nomination of John Rutledge as chief justice of the Supreme Court of the United States, December 10, 1795. John Rutledge was the first nominee to the Supreme Court to be rejected by the Senate. He did, however, serve as chief justice for one term before the Senate turned down the nomination. (cat. no. 112)

Has the Senate limited presidential nominating powers?

When in 1800 the Democratic-Republican candidate, Thomas Jefferson, defeated the incumbent Federalist president, John Adams, he set in motion America's first transfer of power between political parties. In that same election, Democratic-Republicans won the majority in both houses of Congress from the Federalists. After his defeat, President Adams received a letter of resignation from Chief Justice Oliver Ellsworth, who was in poor health. Not wanting Jefferson to make the appointment, Adams hastily nominated former Chief Justice John Jay, whom the Federalist Senate speedily confirmed. But Jay declined to serve, and in the last days of his administration Adams made a second appointment, this time naming his secretary of state, John Marshall, to be chief justice. On January 27, 1801, the Senate unanimously confirmed Marshall's nomination.

Jefferson and members of his party were scornful of all of Adams's "midnight appointments," the term they used to describe the nominations that the lame-duck president had made after his defeat. Democratic-Republicans were particularly offended by the Judiciary Act that the outgoing Federalist Congress passed in February 1801, creating new federal judges, marshals, attorneys, and bailiffs—posts that Adams immediately filled with Federalists. As president, Jefferson convinced the new Democratic-Republican majorities to repeal the Judiciary Act, arguing that if Congress could create new courts, it could also abolish them.

In 1820, Congress acted to add further restraints to presidential appointments. The Four Years Law (which passed that year) set a fixed four-year term for many federal officeholders who previously had served simply at the pleasure of the president. Intended to increase the accountability of office through more frequent rotation of officeholders, the law's principal effect, as President John Quincy Adams observed, was "the permanent increase" in the Senate's confirmation power.

Fierce exchanges took place between the president and Congress over the issue of patronage, or politically motivated federal appointments. Many in Congress were angered when President Andrew Jackson applied the philosophy "to the victor belongs the spoils" to executive appointments, sweeping out of office those with whom he disagreed and spreading federal patronage among his supporters. In 1835, leading Whig senators, including Henry Clay, Daniel Webster, and

John C. Calhoun, supported a bill requiring the president to submit reasons for each removal from office. "The object of the bill," commented John Quincy Adams, now a representative, "is to cut down the Executive power of the President and to grasp it for the Senate." The Patronage Bill passed the Senate by a vote of 31 to 16, but the House refused to act and the bill never became law.

S. 119.

IN SENATE OF THE UNITED STATES.

APRIL 20, 1820.

MR. DICKERSON, from the Select Committee to whom the subject was referred, reported the following bill, which was read, and passed to the second reading.

A BILL

To limit the term of office of certain officers therein named, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, from and after the passing of this act, all district attornies, collectors of the customs, naval officers, and surveyors of the customs, navy agents, receivers of public monies for lands, registers of public lands, paymasters in the army, and pursers in the navy, to be appointed under the laws of the United States, shall be appointed for the term of four years; but shall be removable from office at pleasure.

SEC. 2. *And be it further enacted*, That the term of office of each and every of the officers named in the first section of this act, now in office, unless vacated by removal from of-

Bill to limit the term of office of certain officers therein named, and for other purposes, April 20, 1820. Known as the Four Years Law, this bill set a fixed four-year term for many federal office-holders who previously had served at the pleasure of the president. (cat. no. 116)

Opposite: *John Marshall*, E. B. and E. C. Kellogg, 1844. John Marshall, who was initially appointed secretary of state by President Adams, became chief justice of the Supreme Court on January 27, 1801. (cat. no. 113.)

Why have presidents and the Senate clashed over nominations?

John Tyler, Charles Fenderich, 1841. (cat. no. 119)

Opposite: "A Falling Off—Of Bosses," Thomas Nast, 1881. Presidential nominations were often confrontational. President Garfield reigns supreme as the "bosses," Senators Conkling and Platt, and former Senator Blaine, topple from power. (cat. no. 120)

The constitutional separation of powers preserves liberty by protecting against arbitrary government. But it also creates periodic friction between the branches of the federal government. From time to time, personal, political, and ideological differences over nominations have divided the president and Senate.

In the 1840s, President John Tyler—the first vice president to occupy the White House following the death of a president—broke with the Whig party and vetoed its major legislative initiatives. On March 3, 1843, on the last day of the 27th Congress, with which he had clashed repeatedly, President Tyler came to the Capitol to sign legislation. While there, he submitted the name of Representative Caleb Cushing as his new secretary of the treasury. The sharp-tongued Cushing had been a vociferous defender of the president in the House of Representatives, and had offended many Whigs. They took their revenge in the Senate by defeating the nomination by a vote of 27 to 19. Undaunted, President Tyler sent Cushing's name back a second time. The Senate responded by rejecting the nomination by an even wider margin of 27 to 9. An angry Tyler scratched out a brief note: "I nominate Cushing for Secretary of the Treasury," but this only stiffened the Senate's resolve, and the nomination was rejected for the third and last time by a 29 to 2 vote.

Forty years later, a clash between a president and a group of powerful senators had a dramatic but ironic conclusion. In 1881, President James A. Garfield nominated William E. Robinson to be collector of the port of New York. Robinson had supported Garfield's candidacy for president, in defiance of New York's influential Senator Roscoe Conkling. Outraged that the president had chosen a political enemy for the patronage-rich post of collector, Conkling and his Senate colleague Thomas C. Platt resigned from the Senate in protest. Their plan was to have the state legislature reelect them, demonstrating state support for their opposition to Robinson. Even Garfield's vice president, Chester Arthur, returned to Albany to campaign for Senator Conkling's reelection. However, fate intervened when an assassin who claimed to support Senator Conkling shot the president. Garfield lingered for weeks before he died, and the national revulsion against his shooting led both to Conkling's defeat and Robinson's confirmation.

HARPER'S WEEKLY.

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Can Senators be nominated to other offices?

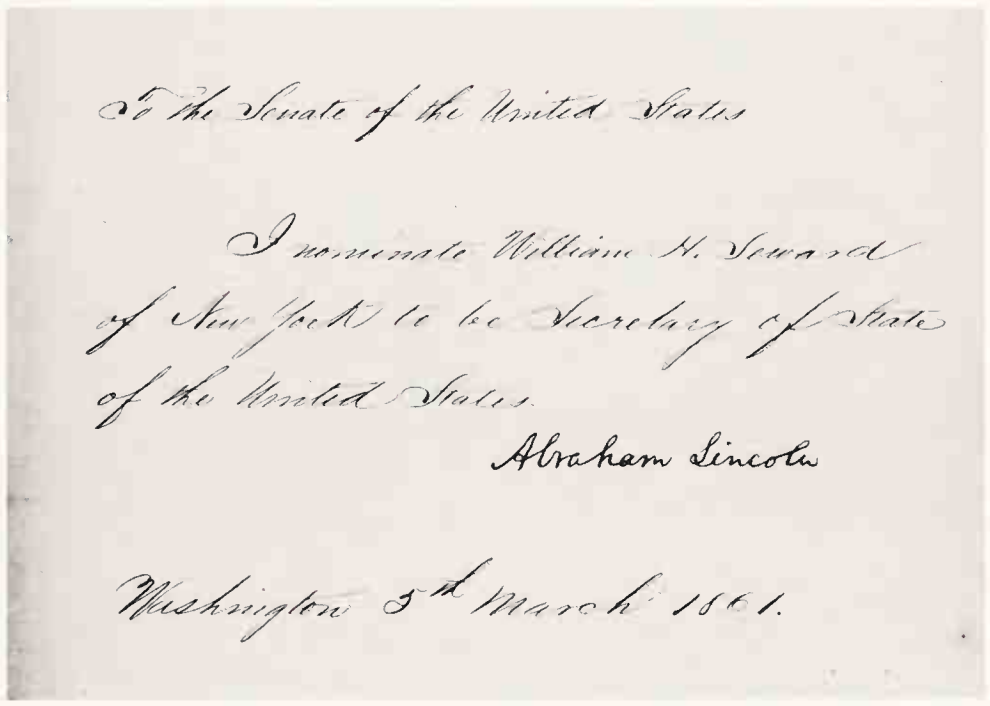
Article I, Section 6 of the Constitution prohibits senators and representatives from being appointed to any executive or judicial post which Congress either created, or increased the salary of, during their term in office. It also provides that members of Congress may hold no other federal office simultaneously with their congressional service.

These provisions reinforced the separation of powers. They prohibit senators and representatives from serving in the cabinet, as in the case of parliamentary governments, and keep members from dividing their attention between legislative and executive or judicial business. They also serve to prevent members of Congress from profiting from offices or salary increases that they might have voted upon. In 1937, for example, when Senator Hugo Black was appointed to the Supreme Court, he declined to accept a salary increase enacted while he was still in the Senate.

However, the Constitution does not prohibit senators from being appointed to other offices if they resign or retire from their Senate seats. Presidents have frequently turned to Congress to fill major posts. In the early years of the republic, many former or serving senators were appointed secretary of state, including James Monroe, John Quincy Adams, Martin Van Buren, John C. Calhoun, James Buchanan, and Daniel Webster. Similarly, President Abraham Lincoln named New York's Senator William H. Seward, one of the leaders of the new Republican party in the Senate, to be his secretary of state. In recent times, President Jimmy Carter tapped Maine's Senator Edmund Muskie to head the State Department. Senator Muskie, like his predecessors, resigned from the Senate in order to accept the presidential appointment.

In addition to their personal qualifications, senators make attractive candidates for appointment because of their increased likelihood of confirmation. Only on rare occasions have senators rejected the nomination of one of their former colleagues. Charges of corruption caused Senate opposition to the nomination of former senator and attorney general George H. Williams in 1873, forcing President Ulysses S. Grant to withdraw his nominee for chief justice of the Supreme Court. The Senate also failed to act upon President Rutherford B. Hayes's nomination of Senator Stanley Matthews to the Supreme Court, because of suspicion that the appointment was a reward for Matthews's support for Hayes during the contested presidential election of 1876.

The First Reading of the Emancipation Proclamation, Alexander Hay Ritchie, 1864. The original painting, on which this engraving is based, was executed in the East Room of the White House and now hangs in the Senate wing of the Capitol. Secretary of State William Seward is seated in the foreground, facing left. (cat. no. 122)



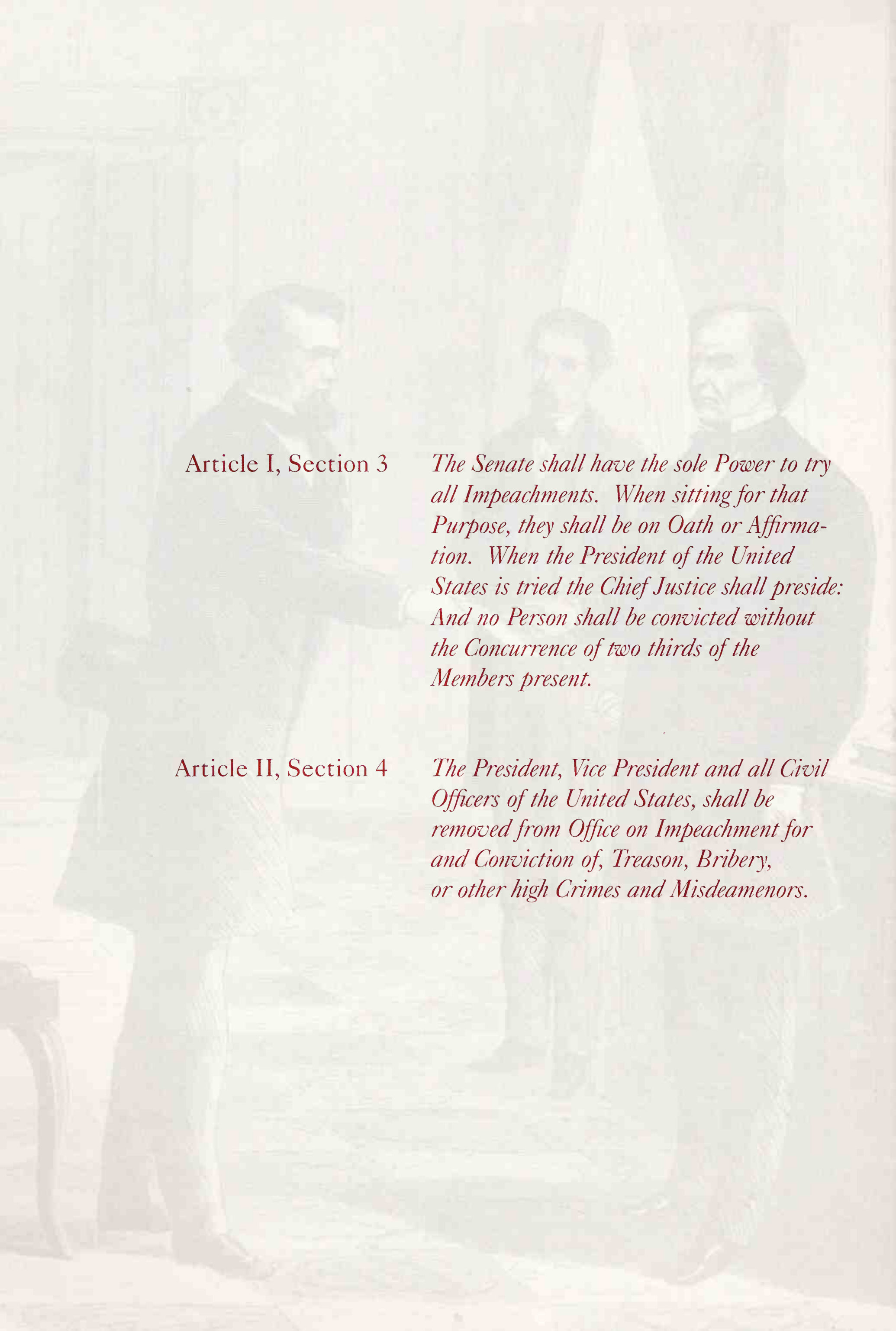
To the Senate of the United States

I nominate William H. Seward of New York to be Secretary of State of the United States.

Abraham Lincoln

Washington 5th March 1861.

Nomination of William H. Seward as secretary of state, March 5, 1861. Presidents have frequently turned to Congress for appointments to major offices. Abraham Lincoln named New York's William Seward to be his secretary of state. (cat. no. 121)



Article I, Section 3

The Senate shall have the sole Power to try all Impeachments. When sitting for that Purpose, they shall be on Oath or Affirmation. When the President of the United States is tried the Chief Justice shall preside: And no Person shall be convicted without the Concurrence of two thirds of the Members present.

Article II, Section 4

The President, Vice President and all Civil Officers of the United States, shall be removed from Office on Impeachment for and Conviction of, Treason, Bribery, or other high Crimes and Misdeamenors.

Why was the Senate given impeachment powers?

Whenever charges serious enough to warrant removal from office are brought against a federal officer, the Constitution assigns the House of Representatives to vote to impeach (similar to indict) and the Senate the authority to decide guilt or innocence. In a sense, the Senate sits as a court, with the chief justice of the Supreme Court presiding if a president has been impeached, and with a two-thirds vote of the senators needed to convict. Although the Constitution refers to the Senate's power to "try" impeachment cases, it does not require that the Senate employ the same procedures as a court of law. Over the past two centuries, the Senate has adopted and amended various rules for hearing impeachment cases, whether by a committee or by the Senate as a whole, including the right to counsel, the right to introduce evidence, the right to call witnesses, the right of cross-examination, and more recently, the right to televise the proceedings. These rules are designed to provide a fair and impartial hearing, and to punish those individuals proven to have violated their oath of office. When it came to conducting a national inquest into the conduct of public men, Alexander Hamilton asked in *The Federalist*, "Where else than in the Senate could have been found a tribunal sufficiently dignified, or sufficiently independent?"

"George T. Brown, Sergeant-at-Arms of the Senate, Serving the Summons on President Johnson," Theodore R. Davis, 1868. (cat. no. 144)

What are impeacheable offenses?

John Pickering, artist unknown, circa 1795. Judge Pickering's physician, Dr. Joshua Brackett, observed that his patient was "very exemplary & correct in his Morals untill about three years when he discovered symptoms of Mental Insanity & consequent intemperance & prophanity in some instances." (cat. no. 123)

Opposite: "Puck Wants 'A Strong Man at the Head of Government'—BUT NOT THIS KIND," Joseph Keppler, 1880. President Grant's administration is shown as a time of wholesale corruption; he clings to the "Whiskey Ring" and "Navy Ring," two scandals, while supporting various bosses and profiteers—including William Belknap. (cat. no. 130)

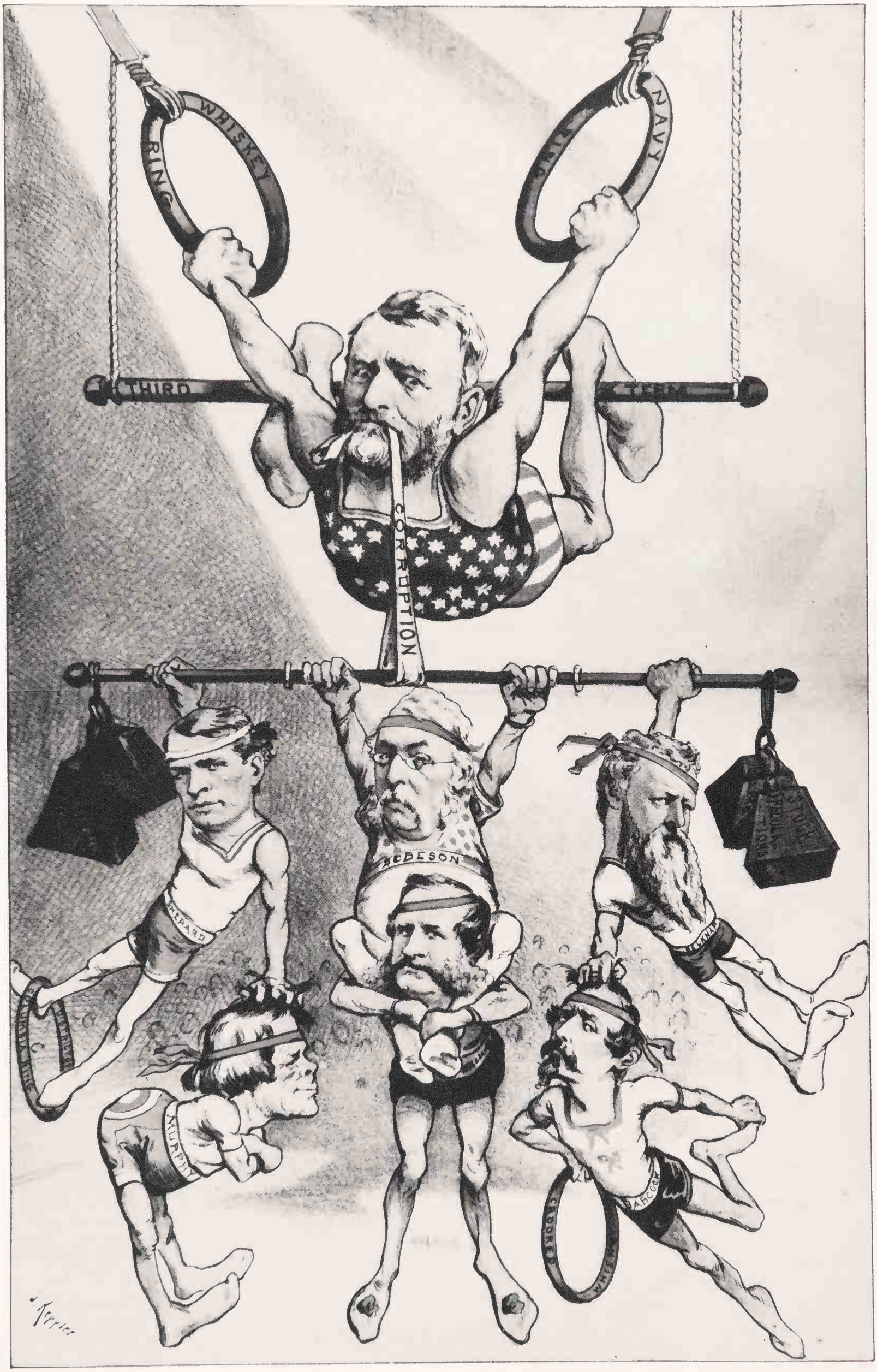
"Shall any man be above Justice?" asked George Mason during the debates of the Constitutional Convention. Creating a republican form of government in a world still ruled by monarchies, the delegates to the convention considered procedures for removing top federal officals, even presidents, who violated their oath of office. As Benjamin Franklin pointed out, without impeachment the only means of removing a chief executive who had "rendered himself obnoxious" was by assassination, a method that not only denied him his life, but any future opportunity to vindicate himself. "It would be the best way therefore to provide in the Constitution for the regular punishment of the Executive when his misconduct should deserve it, and for his honorable acquittal when he should be unjustly accused."

Indicating how solemnly Congress regards the power of impeachment, since 1789 the House has impeached only 16 federal officers: 1 president, 1 senator, 1 cabinet secretary, and 13 federal judges. Three of those impeached resigned voluntarily. The Senate found five others guilty and removed them from office.

Most impeachment cases have dealt with federal judges, with a great variety of charges ranging from intoxication to treason. In one case, John Pickering, an elderly United States district judge for New Hampshire, had gone insane. Charges were brought against him for irregular judicial procedure, loose morality, and public drunkenness. A Federalist, Pickering also came under fire from the Republican administration of Thomas Jefferson, and had few supporters among the Republican majority in Congress. Judge Pickering did not attend his Senate trial, which took place from March 8 to 12 in 1804, and ended in his conviction by a vote of 19 to 7.

In 1862, the Senate took only one day to try and convict West H. Humphreys, a federal judge in Tennessee who did not bother to resign from the judiciary after becoming a Confederate judge. Humphreys remained in Confederate territory and did not attend his Senate trial, which removed him from office by a vote of 38 to 0, and also disqualified him from holding federal office in the future.

Corruption has also figured as a cause of impeachment. Judges have been removed for padding expense accounts, using property in receivership for personal profit, accepting improper payments, filing false income tax returns, and practicing law while serving on the federal bench. In 1876, William W. Belknap, secretary of war in the administration of Ulysses S. Grant, was charged with receiving money for appointing a post trad-


WHISKEY RING
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THIRD TERM
CORRUPTION
HUBBARD
HUBBELL
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MURPHY
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GROSVENOR
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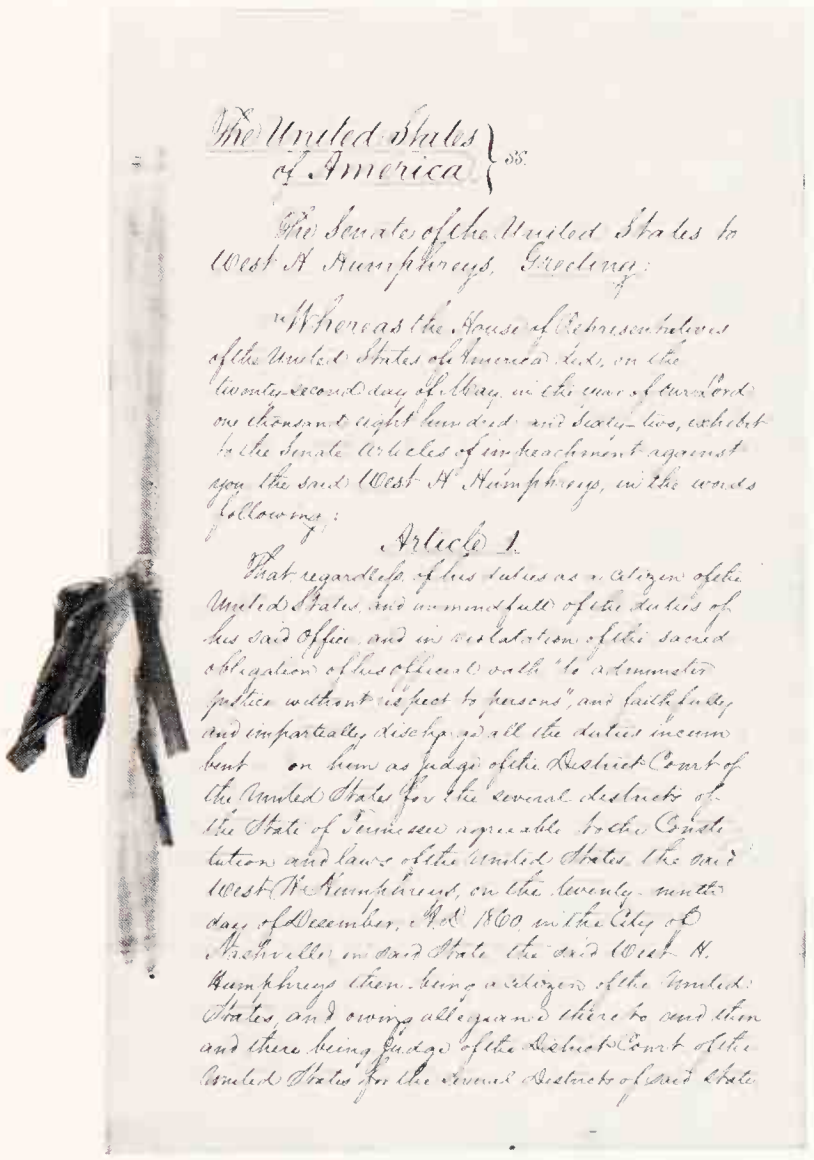


The United States } ss.
of America }

The Senate of the United States to West H. Humphreys, Greeting:

"Whereas the House of Representatives of the United States of America have, on the twenty-second day of May, in the year of our Lord one thousand eight hundred and sixty-two, exhibited to the Senate Articles of impeachment against you the said West H. Humphreys, in the words following:

Article 1.

That regardless of his duties as a citizen of the United States and in command full of the duties of his said office and in violation of his sacred obligation of his oblivion oath "to administer justice without respect to persons" and faithfully and impartially discharge all the duties incumbent on him as judge of the District Court of the United States for the several Districts of the State of Tennessee agreeable to the Constitution and laws of the United States, the said West H. Humphreys, on the seventy-ninth day of December, A.D. 1860 in the City of Nashville in said State the said West H. Humphreys then being a citizen of the United States and owing allegiance thereto and then and there being Judge of the District Court of the United States for the several Districts of said State

Articles of impeachment against Judge West Humphreys, May 22, 1862. The Constitution defines treason as "levying War against [the United States], or in adhering to their Enemies." Judge Humphreys was impeached for treason, as he failed to resign his federal post after accepting a judicial appointment in the Confederacy. (cat. no. 127)

er at Fort Sill, Oklahoma. Facing inevitable removal, Belknap resigned from the cabinet, but that same day the House voted five articles of impeachment against him. The Senate first debated whether it had any jurisdiction over a former federal officer. By a vote of 37 to 29 it decided to proceed with the impeachment trial, but the trial eventually ended in acquittal when senators concluded that they could not act against an individual no longer serving in government.

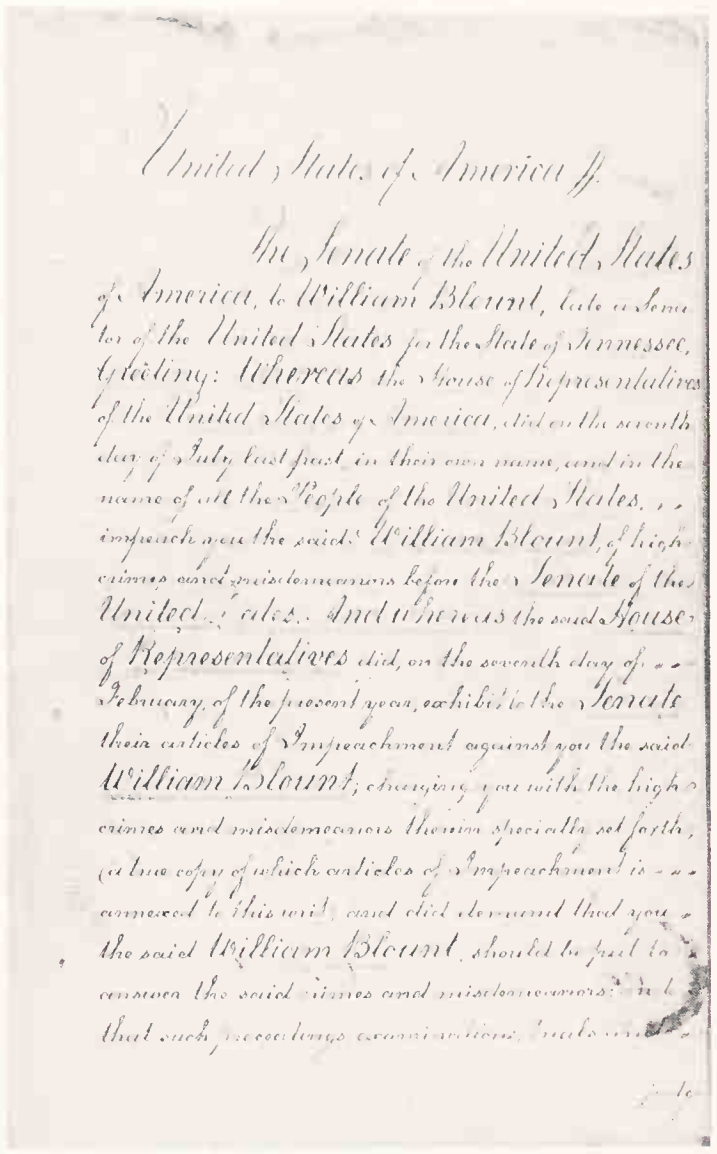
In each of these cases, the Senate handled the impeachment as a committee of the whole—that is, on the Senate floor, with all members hearing all of the testimony. With the increasing press of other Senate business in the 20th century, such proceedings proved too cumbersome. In 1986, when the House impeached Judge Harry E. Claiborne of Nevada, the Senate appointed a special impeachment trial committee to hear the evidence and report its findings to the full Senate for a final vote. "In an ideal world we might prefer that each Senator personally hear all impeachment evidence," said committee chairman Charles Mathias. "However, we are required of necessity to learn through the study of printed records about many of the important matters which compete for our attention." On October 9, 1986, following the committee's recommendation, the Senate voted 87 to 10 to convict Judge Claiborne and remove him from office.

At first the Constitutional Convention limited impeachment to treason and bribery. But George Mason argued that these charges omitted many other offensive activities, and suggested adding "maladministration" as an impeachable offense. Here James Madison objected that the use of such a vague word would allow the Senate to remove a president whenever it disagreed with him on any matter of policy, and would "be equivalent to a tenure during the pleasure of the Senate." George Mason thereupon withdrew "maladministration" in place of the phrase "other high crimes and misdemeanors."

The Constitution clearly defines treasonable behavior, but the term "high crimes and misdemeanors" is much broader and open to interpretation. Other than Judge Humphreys, who sided with the Confederacy during the Civil War, the most treasonable behavior dealt with in an impeachment case involved Senator William Blount of Tennessee in 1797. President John Adams accused Senator Blount of conspiring to instigate Indian attacks for the pur-

pose of wresting New Orleans from Spain. On July 7, the House appointed a committee to consider Blount's impeachment, and the next day the Senate voted to expel Blount. Despite Blount's expulsion, the House investigation continued, and on January 29, 1798, the House voted five articles of impeachment. When the Senate began its trial, Blount was arrested and required to make bond. He objected that he was no longer a federal officer (Blount was then president of the Tennessee state senate). The Senate agreed, and in 1799 dismissed the charges against him because of lack of jurisdiction.

In contrast to the specific charges brought against Senator Blount or Judge Pickering, those leveled against Supreme Court Justice Samuel Chase in 1804 broadly stretched the concept of "high crimes and misdemeanors." Charged with misconduct in office, it appears Chase was more the victim of Jeffersonian Republican frustration over a federal judiciary packed with Federalists. William Branch Giles, a Republican leader in the Senate, considered that impeachment was simply "an enquiry, by the two Houses of Congress, whether the office of any public man might not be better filled by another." Some feared that Chase's removal would signal a wholesale impeachment of Federalist judges, including Chief Justice John Marshall. The Republican majority in the Senate failed to convict Samuel Chase, who personally attended his trial in the Senate chamber.



United States of America ss.

The Senate of the United States of America, to William Blount, late a Senator of the United States for the State of Tennessee, Greeting: Whereas the House of Representatives of the United States of America, did on the seventh day of July, last past, in their own name, and in the name of all the People of the United States, impeach you the said William Blount, of high crimes and misdemeanors before the Senate of the United States. And whereas the said House of Representatives did, on the seventh day of February, of the present year, exhibit to the Senate their articles of Impeachment against you the said William Blount, charging you with the high crimes and misdemeanors therein specially set forth, (a true copy of which articles of Impeachment is annexed to this writ) and did demand that you the said William Blount should be put to answer the said crimes and misdemeanors: and that such proceedings examinations trials

Writ of summons instructing William Blount to present himself before the Senate to answer the articles of impeachment drafted against him, March 1, 1798. Although the Senate had expelled Senator Blount, it declined to convict him on the grounds that its members were not civil officers of the government and therefore not impeachable. (cat. no. 31)

Is impeachment a judicial or a political action?

The trial of Justice Chase suggested that impeachment serves political as well as judicial ends. Congress is fundamentally a political institution, and even with its powers to "try" impeachment cases the Senate is not a court. Delegates to the Constitutional Convention recognized this anomaly and raised concerns about its consequences. Charles Pinckney warned that if the Congress had the power of impeachment it would hold it "as a rod over the Executive and by that means effectively destroy his independence." Edmund Randolph considered impeachment primarily a judicial function and urged that the Supreme Court determine all impeachments. Pinckney suggested that the Senate and the Supreme Court try impeachments together, but in the end the Constitution assigned that responsibility solely to the Senate, with the chief justice as presiding officer during presidential impeachments.

The single most political impeachment trial was President Andrew Johnson's, in March 1868. Having succeeded to the presidency following the assassination of Abraham Lincoln, Johnson disagreed completely with Republican leaders in Congress over how the South should be reconstructed after the Civil War. Members of Congress objected to the president's lib-

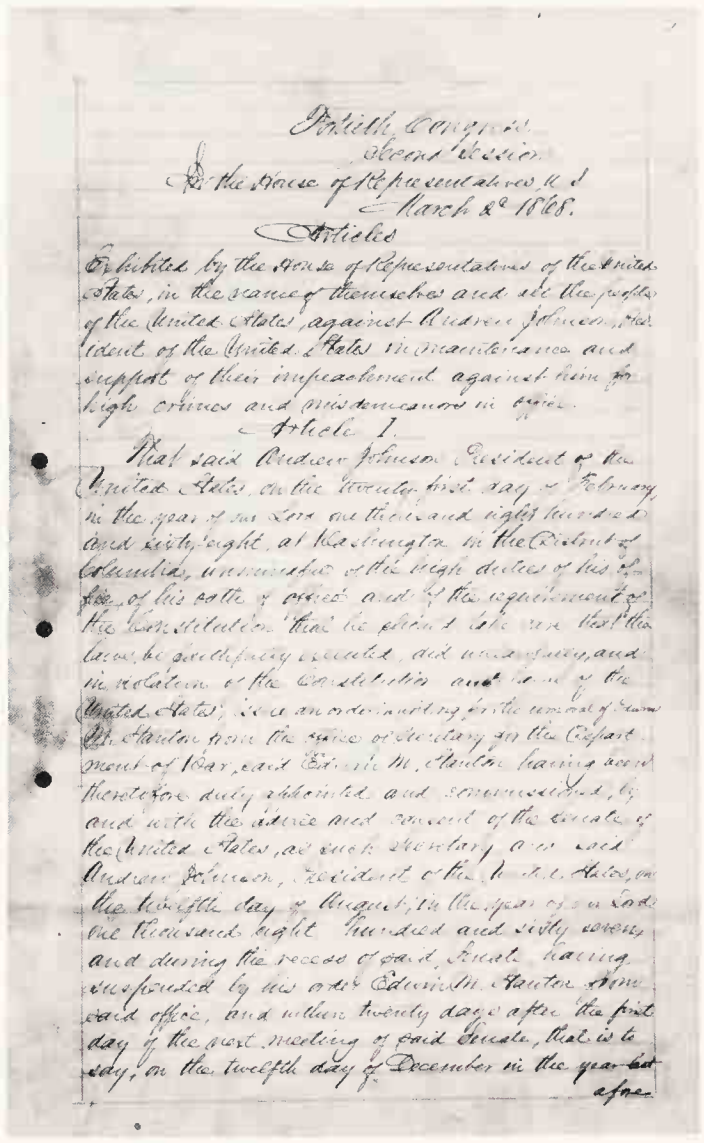
Managers of the House of Representatives of the Impeachment of Andrew Johnson, Mathew Brady, or his studio, 1868. The House impeachment managers acted as prosecuting attorneys in the "court of impeachment." From left to right: Benjamin Butler (Massachusetts), James Wilson (Iowa), Thaddeus Stevens (Pennsylvania), George Boutwell (Massachusetts), Thomas Williams (Pennsylvania), John Logan (Illinois), and John Bingham (Ohio). (cat. no. 138)

eral pardoning of former Confederates and his attempt to bring their states speedily back to full status in the Union without first assuring the political and economic rights of the newly freed slaves. Johnson's veto of the Freedman's Bureau Bill in 1866 seriously estranged him from the majority in Congress, but the House rejected impeachment motions until Johnson fired Secretary of War Edwin Stanton, in defiance of the Tenure of Office Act. In February 1868, the House voted to impeach the president.

Members of the House committee on impeachment presented the case against the president, who declined to attend the Senate trial but was represented by counsel. Johnson's defenders argued the unconstitutionality of the Tenure of Office Act. (The act was eventually repealed in 1887 and declared unconstitutional by the Supreme Court in 1926.) To mitigate charges of a political trial, the Senate agreed to act according to a court of law and to adhere to judicial standards of evidence. It agreed to let the chief justice, who presided, decide all questions of law and evidence (although the Senate could vote to overrule any decision of its presiding officer). Thereafter, the debate focused on the legality or illegality of Johnson's actions, rather than on his political disagreements with Congress. Although a clear majority favored removing the president, the impeachers fell one vote short of the required two-thirds majority.

In later years, scholars contended that the Senate's failure to impeach Johnson preserved the presidency as a strong institution by protecting presidents from political impeachments. Yet impeachment, although untested for another century, remained a powerful instrument for curbing abuse of presidential power. In 1974, the House Judiciary Committee voted a bill of particulars against President Richard M. Nixon for wiretapping, persecution of political opponents, and improper activities associated with his reelection campaign. Anticipating impeachment by the full House and conviction by the Senate, Nixon became the only American president to resign from office. Still facing criminal charges, Nixon later received a pardon from his successor, Gerald Ford.

Though little used in two centuries of constitutional government, impeachment remains a powerful instrument for protecting against improper behavior in government. Its impact has been made all the stronger because Congress has chosen to use it so sparingly.



Articles of impeachment against President Andrew Johnson, March 2, 1868. In drafting the 11 articles of impeachment against Andrew Johnson, the House of Representatives charged the president with attempting to "bring into disgrace, ridicule, hatred, contempt, and reproach the Congress of the United States." (cat. no. 139)

"The Ladies' Gallery of the Senate During the Impeachment Trial," W. S. L. Jewett, 1868. During President Johnson's impeachment trial, the Senate galleries were filled to capacity. *Harper's Weekly* reported that "the most lovely as well as the most distinguished ladies of Washington have been in daily attendance." (cat. no. 150)

Opposite: Three ballots used in the impeachment trial of President Andrew Johnson, 1868. On May 16 the Senate voted on the 11th article of impeachment, and on May 26 it voted on the 2nd and 3rd articles. Each time the count was 35 to 19—one short of the two-thirds majority necessary for conviction. None of the other articles of impeachment were voted on by the Senate. (cat. no. 149)

Admission ticket to the impeachment trial of President Andrew Johnson, April 22, 1868. Only holders of numbered and dated tickets could observe the trial from the Senate galleries. (cat. no. 151)

Article XV

	YEAS.		NAYS.
1	Guilty	Anthony .	
		Bayard .	
		Buckalew .	
2	Guilty	Cameron .	
3	Guilty	Cattell .	
	Guilty	Chandler .	
	Guilty	Cole . .	
	Guilty	Conkling .	
	Guilty	Conness .	
	Guilty	Corbett .	
	Guilty	Cragin .	
		Davis .	
		Dixon .	
		Doolittle	
	Guilty	Drake .	
	Guilty	Edmunds .	
	Guilty	Ferry .	
		Fessenden	
		Fowler .	
	Guilty	Frelinghuysen	
		Grimes .	
	Guilty	Harlan .	
		Henderson .	
		Hendricks .	
	Guilty	Howard	
	Guilty	Howe	
		Johnson .	
		McCreery .	
	Guilty	Morgan .	
	Guilty	Morrill, of Mai	
	Guilty	Morrill, of Vt.	
	Guilty	Morton .	
		Norton .	
	Guilty	Nye . .	
	Guilty	Patterson, of N.	
		Patterson, of Te	
	Guilty	Pomeroy .	
	Guilty	Ramsey .	
		Ross . .	
		Saulsbury .	
	Guilty	Sherman .	
	Guilty	Sprague .	
	Guilty	Stewart .	
	Guilty	Sumner .	
	Guilty	Thayer .	
	Guilty	Tipton .	
		Trumbull .	
		Van Winkle	
		Vickers .	
	Guilty	Wade .	
	Guilty	Willey .	
	Guilty	Williams .	
	Guilty	Wilson	
	Guilty	Yates .	

35

MAY 11, 1868.

Article XV

	YEAS		NAYS.
1	Guilty	Anthony .	
		Bayard .	
		Buckalew .	
2	Guilty	Cameron .	
3	Guilty	Cattell .	
4	Guilty	Chandler .	
5	Guilty	Cole . .	
6	Guilty	Conkling .	
7	Guilty	Conness .	
8	Guilty	Corbett .	
9	Guilty	Cragin .	
		Davis .	
		Dixon .	
		Doolittle	
10	Guilty	Drake .	
11	Guilty	Edmunds .	
12	Guilty	Ferry .	
		Fessenden	
		Fowler .	
13	Guilty	Frelinghuysen	
		Grimes .	
14	Guilty	Harlan .	
		Henderson .	
		Hendricks .	
15	Guilty	Howard	
16	Guilty	Howe	
		Johnson .	
		McCreery .	
17	Guilty	Morgan .	
18	Guilty	Morrill, of Mai	
19	Guilty	Morrill, of Vt.	
20	Guilty	Morton .	
		Norton .	
21	Guilty	Nye . .	
22	Guilty	Patterson, of N.	
		Patterson, of T	
23	Guilty	Pomeroy .	
24	Guilty	Ramsey .	
		Ross . .	
		Saulsbury .	
25	Guilty	Sherman .	
26	Guilty	Sprague .	
27	Guilty	Stewart .	
28	Guilty	Sumner .	
29	Guilty	Thayer .	
30	Guilty	Tipton .	
		Trumbull .	
		Van Winkle	
		Vickers .	
31	Guilty	Wade .	
32	Guilty	Willey .	
33	Guilty	Williams .	
34	Guilty	Wilson	
35	Guilty	Yates .	

35

MAY 11, 1868.

Article XV.

	YEAS. May 16 1868		NAYS.
	Guilty	Anthony . .	
		Bayard .	not guilty
		Buckalew .	not guilty
	Guilty	Cameron . .	
	Guilty	Cattell . .	
	Guilty	Chandler . .	
	Guilty	Cole . . .	
	Guilty	Conkling . .	
	Guilty	Conness . .	
	Guilty	Corbett . .	
	Guilty	Cragin . .	
		Davis .	not guilty
		Dixon .	not guilty
		Doolittle	not guilty
	Guilty	Drake . .	
	Guilty	Edmunds . .	
	Guilty	Ferry . .	
		Fessenden	not guilty
		Fowler .	not guilty
	Guilty	Frelinghuysen .	
		Grimes .	not guilty
	Guilty	Harlan . .	
		Henderson .	not guilty
		Hendricks .	not guilty
	Guilty	Howard .	
	Guilty	Howe .	
		Johnson .	not guilty
		McCreery .	not guilty
	Guilty	Morgan . .	
	Guilty	Morrill, of Maine	
	Guilty	Morrill, of Vt. .	
	Guilty	Morton . .	
		Norton .	not guilty
	Guilty	Nye . . .	
	Guilty	Patterson, of N. H.	
		Patterson, of Tenn.	not guilty
	Guilty	Pomeroy . .	
	Guilty	Ramsey . .	
		Ross . .	not guilty
		Saulsbury .	not guilty
	Guilty	Sherman . .	
	Guilty	Sprague . .	
	Guilty	Stewart . .	
	Guilty	Sumner . .	
	Guilty	Thayer . .	
	Guilty	Tipton . .	
		Trumbull .	not guilty
		Van Winkle	not guilty
		Vickers .	not guilty
	Guilty	Wade . .	
	Guilty	Willey . .	
	Guilty	Williams . .	
	Guilty	Wilson .	
	Guilty	Yates . .	

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19

MAY 11, 1868.

After the first century

Fully exercising such constitutional powers as the advice and consent over treaties and nominations, and the right to sit as a court of impeachment, and developing such rules and traditions as unlimited debate, the United States Senate completed its first century as a major force in the functioning of the federal government. Unlike the upper house in other parliaments of the world, the Senate did not defer to the popularly elected chamber. To the contrary, members of the House aspired to "promotions" to the Senate, as Woodrow Wilson observed in 1885. The Senate attracted men of stature and ambition, many of whom earned national reputations within its chamber.

Increasingly throughout its first century, the Senate dominated the national government. Senators exercised great influence over both foreign and domestic policy and were the final shapers of most major legislation. They enjoyed political preeminence over the House, and with few notable exceptions, were more than an equal match for the presidents of the United States.

At the same time, public criticism mounted against the Senate and its method of election. Scandals involving election of senators by state legislatures reflected poorly on the institution as a whole. Reformers accused the Senate of becoming a "millionaires' club," more responsive to powerful economic interests than to public opinion. The Senate's declining public image culminated in ratification of the 17th Amendment to the Constitution in 1913, which established direct popular election of senators. No longer the "necessary fence" against public vicissitude that James Madison and other framers of the Constitution had envisioned, the Senate developed into a far more responsive institution during its second century. Yet it has retained considerable constitutional powers and responsibilites, and its rules continue to provide every senator, whether a member of the majority or minority, an influential platform on which to resist the "fickleness and passion" of the moment.

Lenders to the exhibition

William L. Clements Library
University of Michigan
Ann Arbor, Michigan

The Corcoran Gallery of Art
Washington, D.C.

The late Elizabeth R. Crosby

Beauvoir, the Jefferson Davis Shrine
Biloxi, Mississippi

The Historical Society of Pennsylvania
Philadelphia, Pennsylvania

Library of Congress
Washington, D.C.

Massachusetts Historical Society
Boston, Massachusetts

Richard C. Mastbrook

The Mount Vernon Ladies' Association
Mount Vernon, Virginia

University of Hartford
Museum of American Political Life
West Hartford, Connecticut

Museum of Fine Arts
Boston, Massachusetts

National Archives
Washington, D.C.

National Gallery of Art
Washington, D.C.

National Museum of American History
Smithsonian Institution
Washington, D.C.

National Portrait Gallery
Smithsonian Institution
Washington, D.C.

New Hampshire Historical Society
Concord, New Hampshire

New-York Historical Society
New York, New York

Ohio Historical Society
Columbus, Ohio

Robert L. Staples

Scott M. Strong

Anjanette V. Van Horn

The Vice President's House
Washington, D.C.

The Henry Francis du Pont Winterthur Museum
Winterthur, Delaware

A necessary fence . . .

Checklist by
Diane K. Skvarla
Associate Curator
United States Senate

Explanation of checklist

Entries are arranged in the order that objects appear in the exhibition. All dimensions are given in inches, height preceding width and depth; for freestanding sculpture only the height is noted. Print measurements indicate the sheet size; measurements for paintings are the canvas size; and book dimensions indicate the closed size. Whenever possible, the specific location or catalogue number of an object within a collection is included.

Abbreviations for the most commonly used institutions are:

LC	Library of Congress
NA	National Archives
NA, Sen.	National Archives, Senate Records, Record Group #46
NMAH	National Museum of American History, Smithsonian Institution
NPG	National Portrait Gallery, Smithsonian Institution
USS	United States Senate Collection

Who can be a senator?

1. Credentials of Senators Oliver Ellsworth and William Samuel Johnson of Connecticut, October 9, 1788 (12 3/4" x 7 15/16"); NA, Sen. 8E-2A. Oliver Ellsworth and William Samuel Johnson were Connecticut's first two senators. Ellsworth later became chief justice of the Supreme Court of the United States.

2. Credentials of Senator Thomas Hart Benton of Missouri, November 21, 1838 (9 3/4" x 7 3/4"); NA, Sen. 8E-2A. Elected to the Senate in 1821, Thomas Hart Benton served for 30 years as the West's most articulate spokesman, promoting such interests as the pony express, the telegraph, and the railroads.

3. Credentials of Senator Justin Smith Morrill of Vermont, October 24, 1866 (7 3/4" x 9 3/4"); NA, Sen. 8E-2A. Senator Morrill, who served in the Senate from 1867 to 1898, once turned down a cabinet appointment with the comment, "There is no gift, no office to which I could be appointed, that I would accept in preference to a seat in the United States Senate."

4. Holy Bible used in the Senate chamber (Cambridge, England: J. Smith, 1826) (7 1/16" x 4 1/2"); USS, 14.00055. Among the many prominent senators who took their oath of office on this King James Bible were Henry Clay, Daniel Webster, John C. Calhoun, and Jefferson Davis. This Bible remained in use in the Senate chamber until 1882.

5. *Albert Gallatin* (1761–1849), Henry B. Hall (1808–1884), etching, 1870 (6 9/16" x 4 3/4"); LC, Prints and Photographs Division.

6. Petition from Pennsylvania citizens protesting the election of Albert Gallatin, December 2, 1793 (13 1/4" x 8 1/8"); NA, Sen. 3A-G3.

7. Reply of Albert Gallatin to the petition protesting his election, February 10, 1794 (12 5/8" x 7 7/8"); NA, Sen. 3A-D1.

8. Credentials of Senator John Henry Eaton of Tennessee, September 5, 1818 (9 1/2" x 7 3/4"); NA, Sen. 8E-2A.

9. Credentials of Senator Hiram Rhodes Revels of Mississippi, January 25, 1870 (9 7/8" x 7 5/8"); NA, Sen. 8E-2A.

10. *The First Colored Senator and Representatives*, Currier & Ives lithography company (active 1857–1907), after photographs, lithograph, 1872 (12 1/16" x 14 15/16"); NPG, 80.195. From left to right: Hiram Revels (Mississippi), Benjamin Turner (Alabama), Robert De Large (South Carolina), Josiah Walls (Florida), Jefferson Long (Georgia), Joseph Rainey (South Carolina), and Robert Elliott (South Carolina).

11. Gavel used in the Senate chamber, ivory and silver, early 19th century (2 5/8" x 1 1/2"); USS, 91.00001.

12. *John Adams* (1735–1826), Daniel Chester French (1850–1931), marble, 1889 (31 1/4"); USS, 22.00001. On May 13, 1886, the Senate resolved that "marble busts of those who have been Vice-Presidents of the United States shall be placed in the vacant niches of the Senate Chamber from time to time."

13. Two Senate ballots on which Vice President John Adams cast tie-breaking votes, July 28, 1790 (9 7/8" x 2 13/16"; 10 1/16" x 2 11/16"); NA, Sen. 4-J.

14. *A Manual of Parliamentary Practice. For the Use of the Senate of the United States*, Thomas Jefferson (1743–1826), (Washington, D.C.: Samuel Harrison Smith, 1801) (6 1/8" x 3 15/16"); The Vice President's House, Washington, D.C.

15. *Thomas Jefferson* (1743–1826), Thomas Sully (1783–1872), oil on canvas, circa 1851 (30" x 25 1/4"); USS, 31.00006.

16. Thomas Jefferson's farewell address to the Senate, February 28, 1801 (9 9/16" x 14 5/8"); NA, Sen. 6A-J5. Jefferson offered these words upon leaving the Senate: "In the discharge of my functions here it has been my conscientious endeavor to observe impartial justice, without regard to persons or subjects . . . I may have erred at times: no doubt I have erred . . . for honest errors however indulgence may be hoped."

17. *Willie Person Mangum* (1792–1861), James Reid Lambdin (1807–1889), oil on canvas, 1844 (30 1/2" x 25 1/2"); USS, 32.00022. A senator from North Carolina for 18 years, Willie Mangum was president pro tempore between May 1842 and March 1845. Because of the rules of succession at the time and the absence of a vice president (John Tyler had become the first vice president to succeed to the presidency upon the death of the incumbent, William Henry Harrison), Mangum was next in line to the presidency while president pro tempore.

18. Letter from the State Department to Secretary of the Senate Samuel A. Otis, January 5, 1792 (7 5/8" x 9 5/16"); NA, Sen. 2D-A3. Otis was responsible for the preparation and distribution of the *Senate Journal*. The State Department requested Otis to send it eight copies for each session, five of which were to be sent abroad.

19. *Samuel A. Otis* (1740–1814), Gilbert Stuart (1755–1828), oil on panel, 1809 (28 1/2" x 22 3/4"); National Gallery of Art, Washington, D.C.; 1980.11.2. gift of the Honorable and Mrs. Robert H. Thayer.

20. Letter from Secretary of the Senate Samuel A. Otis to Senator Jacob Read of South Carolina, April 20, 1801 (10 3/8" x 8 1/4"); LC, Manuscript Division. Otis complained, "The fact is Congress cannot be accommodated here [Washington, D.C.]. There is no market for wood provisions or in short anything. . . . What a project to make this the seat of Government!"

21. Notes from Isaac Bassett on turning back the hands of the Senate clock, circa 1875

(9 1/2" x 7 1/2"); private collection.

22. *Isaac Bassett* (1819–1895), Freeman Thorp (1844–1922), oil on canvas, 1876 (30 1/4" x 25"); private collection. Isaac Bassett worked in the Senate as a page, messenger, and assistant doorkeeper from 1831 until his death in 1895. His colorful journals provide an unparalleled chronicle of the institution in the 19th century. He wrote of his life in the Senate: "I always made it a rule never to be in a senator's way."

23. Snuff box presented to Isaac Bassett by the Senate in his 50th year as a Senate employee, December 5, 1881, Tiffany & Company, New York (active 1837–present), sterling silver with vermeil interior, 1881 (3/4" x 3 1/2" x 2"); private collection. This gift was made to Bassett by the members of the Senate "in recognition of his personal worth and official fidelity."

24. Senate chamber chair used by Jefferson Davis, Thomas Constantine (1791–1849), mahogany, first half of the 19th century (37" x 24" x 24"); Beauvoir, the Jefferson Davis Shrine, Biloxi, Mississippi. When British troops set the Capitol ablaze in 1814, they severely damaged the Senate chamber and destroyed its furnishings. During the rebuilding of the room, 48 chairs were built by New York cabinetmaker Thomas Constantine at a cost of $46 each.

25. Senate chamber desk used by Daniel Webster, Thomas Constantine (1791–1849), mahogany, circa 1819 (35" x 26 1/4" x 22"); USS. Forty-eight desks were purchased for the Senate chamber in 1819 at a cost of $34 each. They were based on a design attributed to architect Benjamin Henry Latrobe. Beginning in the 1830s, writing boxes were added to provide more room for books and papers. Daniel Webster's desk was the only one not altered. Webster noted that if his predecessors could do without the additional space, so could he. In 1974, the Senate passed a resolution that the Webster desk should always be assigned to the senior senator from New Hampshire, where Webster was born.

26. Senate chamber bill hopper, attributed to Thomas Constantine (1791–1849), mahogany, circa 1819 (74 1/2" x 23 1/4" x 23 1/4"); NMAH. This mahogany case piece was used in the Old Senate Chamber during the first half of the 19th century to store and track bills. As a bill advanced through the legislative process, it moved up the shelves of the hopper. It is traditionally held that the upper shelves had less space between them because so few bills survived to become law.

27. Spittoon, ceramic (American), circa 1880 (h. 4 1/4", dia. 7 1/2"); USS, 46.00002. Owing to the popularity of tobacco chewing during the 19th century, a spittoon was placed by every senator's desk. According to Charles Dickens, who visited the Capitol in 1842, these spittoons were used less frequently than one would have hoped: "The state to which these carpets are reduced by the universal disregard of the spittoon with which every honourable member is accommodated . . . do not admit of being described."

How does the Senate operate?

28. *Federal Hall: The Seat of Congress*, Amos Doolittle (1754–1832), after Peter Lacour, engraving, 1790 (18 1/2" x 15 1/8"); The Historical Society of Pennsylvania, Philadelphia, Pennsylvania, BC 68N567G.

29. *Senate Journal*, open to April 6, 1789 (15 1/4" x 10 1/2"); NA, Sen. 1A-A3.

30. Letter from Senator William Blount to Senator James Ross, chairman of the committee investigating Blount, July 5, 1797 (10" x 7 7/8"); NA, Sen. 5C-A3. Senator Blount maintained that he never intended to injure the United States. He wrote, "I trust sufficient time will be allowed me to justify or refute whatever may be deemed offensive."

31. Writ of summons instructing William Blount to present himself before the Senate to answer the articles of impeachment drafted against him, March 1, 1798 (16 1/4" x 9 7/8"); NA, Sen. 5C-A3.

32. Endorsement page of President Andrew Jackson's protest of his censure, read to the Senate April 17, 1834 (7 7/8" x 9 7/8"); NA, Sen. 23A-E2. Protesting his censure, President Jackson contended that the Senate was not authorized by the Constitution to censure the president: "When the Chief Executive Magistrate is . . . without precedent, competent authority, or just cause, declared guilty of a breach of the laws of the Constitution, it is due to his station, to public opinion, and to a proper self-respect that the officer thus denounced should promptly expose the wrong which has been done."

33. *The Downfall of Mother Bank*, artist unknown, published by Henry R. Robinson (active 1833–1851), lithograph, 1833 (11 1/8" x 15 3/8"); LC, Prints and Photographs Division. Believing that the Bank of the United States was elitist, poorly managed, and unconstitutional, President Andrew Jackson directed the government to withdraw funds from the national bank and deposit them in various state banks. In this pro-Jackson cartoon, the rays from the president's order cause the pillars of the bank to fall as senators and newspaper editors scatter in fear.

34. *Plain Sewing Done Here—Symptoms of a Locked Jaw*, David Claypoole Johnston (1799–1865), lithograph, 1834 (8 5/8" x 6 15/16"); The Henry Francis du Pont Winterthur Museum, Winterthur, Delaware, 73.372.

35. *Senate Journal* showing expunged censure of President Andrew Jackson, March 28, 1834 (12 7/8" x 7 1/2"); NA, Sen 23A-A1. On January 14, 1837, nearly three years after the censure of President Jackson, the Senate expunged the entry from the *Senate Journal* by a vote of 24 to 19. An opponent of the expunging wrote that the book "seemed like a living victim on the altar of sacrifice, and the scratch of the pen alone was heard in the awful silence which prevailed when the gall of party bitterness drew its lines in the blackness of darkness around the freedom and independence of the Senate."

36. *Daniel Webster* (1782–1852), Thomas Ball (1819–1911), bronze, 1853 (30 1/4"); USS, 24.00006.

37. *John Caldwell Calhoun* (1782–1850), Clark Mills (1815–1883), bronze, 1850, (25 1/2"); The Corcoran Gallery of Art, Washington, D.C., gift of the artist, 83.10. John C. Calhoun of South Carolina was described by a contemporary as "the cast-iron man, who looks as if he had never been born and never could be extinguished."

38. *Henry Clay* (1777–1852), Thomas Ball (1819–1911), bronze, 1858 (30 3/4"); USS, 24.00007.

39. *Defence of the South!! General Hayne, in Reply to Mr. Webster, of Massachusetts*, Robert Hayne (1791–1839), (Charleston, South Carolina: A. E. Miller, 1830) (8 5/8" x 5 1/2"); LC, Rare Book Room.

40. Notes for Senator Daniel Webster's second reply to Senator Robert Hayne, delivered January 26, 1830 (9 3/4" x 8"); LC, Manuscript Division, Papers of Daniel Webster, vol. 12, #18004-5.

41. Recollection by Assistant Doorkeeper Isaac Bassett of the scene in the Senate chamber as Daniel Webster delivered his second reply to Robert Hayne, circa 1875 (8 1/2" x 7 3/4"); private collection. Isaac Bassett witnessed the measures that Representative Dixon H. Lewis of Alabama was willing to take to watch Daniel Webster deliver his famous response to Hayne in 1830: "He was Seated behind the painted glass frame. that seprated the lobby. from the floor of the Chamber. and unable to see Mr. Webster he deliberty pulid out his knife. and removed the

obstructing paint on the glass."

42. Letter from Mrs. Margaret Bayard Smith on the morning of Senator Daniel Webster's second reply to Senator Robert Hayne, January 26, 1830 (9 13/16" x 7 15/16"); LC, Manuscript Division, Papers of Margaret Bayard Smith, vol. 12, #67885-6. Margaret Bayard Smith, one of the great hostesses among Washington society, wrote of the excitement surrounding the Webster-Hayne confrontation: "A debate on any political principle would have had no such attraction. But personalities are irrisistible. . . . The Senate chamber, is the present arena and never were the amphitheatres of Rome more crowded by the highest ranks of both sexes than the Senate chamber is. Every seat, every inch of ground, even the steps, were compactly filled, and yet not space enough for the ladies."

43. Study for *Webster Replying to Hayne*, George P. A. Healy (1813–1894), gouache and oil on canvas mounted on board, circa 1847 (10 1/8" x 13 5/8"); Massachusetts Historical Society, Boston, Massachusetts. In 1847, artist George P. A. Healy began work on a monumental canvas depicting Daniel Webster's famous 1830 reply to Senator Robert Hayne. The painting was originally commissioned by Louis Philippe of France, but Healy was forced to find a new buyer when the king was deposed. The canvas was installed for public viewing in Boston's Athenaeum in the summer of 1851. A public drive for funds was quickly underway, and the city soon purchased the painting. It currently hangs in Faneuil Hall.

44. Letter from Samuel Atkinson to Daniel Webster requesting copies of his speeches, March 5, 1830 (10 11/16" x 7 5/16"); LC, Manuscript Division, Papers of Daniel Webster, vol. 3, #15853. Within a few weeks of the debate, Daniel Webster's second reply to Senator Hayne was in greater demand than any other congressional speech in American history. Webster received hundreds of congratulatory letters, many asking for copies of his response.

45. *Register of Debates in Congress*, open to January 27, 1830 (Washington, D.C.: Gales and Seaton, 1830) (10 1/16" x 7 1/4"); USS, J11.D5. Generations of schoolchildren were required to memorize the closing lines of Daniel Webster's second reply to Robert Hayne: "When my eyes shall be turned to behold, for the last time, the sun in heaven, may I not see him shining on the broken and dishonored fragments of a once glorious Union. . . . but every where, spread all over in characters of living light, blazing on all its ample folds, as they float over the sea and over the land, and in every wind under the whole heavens, that other sentiment, dear to every true American heart—Liberty and Union, now and forever, one and inseparable!"

46. *Union*, Henry S. Sadd (active 1832–1850), after painting by Tompkins Harrison Matteson, mezzotint engraving, 1852 (25" x 32"); USS, 38.00019.001. This print, which unites Daniel Webster of Massachusetts, John C. Calhoun of South Carolina, and Henry Clay of Kentucky, celebrates the political consensus achieved by the Compromise of 1850. Webster stands with his hand resting on the "Constitution of the United States of America." Calhoun looks on near the center of the print; seated next to him is Clay. Other prominent politicians and military leaders of the day also appear.

47. *The United States Senate, A.D. 1850*, Robert Whitechurch (1814–1880), after oil painting by Peter Frederick Rothermel, after daguerreotypes, engraving, 1855 (30 7/8" x 37 3/4"); USS, 38.00029.001. Henry Clay presents his program of compromise to the Senate in 1850, while Vice President Millard Fillmore presides. Calhoun appears to the right of the vice president, and Webster is seated in the left foreground, head in hand.

48. *Where's My Thunder?*, David Claypoole Johnston (1799–1865), lithograph, circa 1850 (8 1/2" x 11"); USS, 38.00058.001.

49. *The Capitol*, attributed to John Plumbe, Jr. (1811–1857), daguerreotype, circa 1846 (4 1/2" x 5 1/2"); LC, Prints and Photographs Division, Daguerrotype Collection 219.

50. Henry Clay's resolutions for compromise, in his own hand, January 29, 1850 (9 15/16" x 7 7/8"); NA, Sen. 31A-B3.

51. Fragment of George Washington's coffin, mahogany, 1799 (2" x 3"); Mount Vernon Ladies' Association, Mount Vernon, Virginia. When Henry Clay presented his program of compromise on January 29, 1850, he held up a fragment of George Washington's coffin, similar to this piece. Clay warned against adopting measures "which shall destroy that Union which was cemented by his [Washington's] exertions and example." He declared that "the Constitution . . . was made, not merely for the generation which then existed, but for posterity, undefined, unlimited, permanent and perpetual."

52. *Plan of the Senate Chamber, Ist Session-XXXIst Congress*, 1850 (18" x 13 1/8"); USS, 37.00002. On the left side of the Old Senate Chamber sat three of the strongest supporters of the Compromise of 1850: Henry Clay (seat 2), Daniel Webster (seat 29), and Stephen A. Douglas (seat 10). Across the aisle sat two southern hard-liners who opposed the compromise: John C. Calhoun (seat 35) and Jefferson Davis (seat 36).

53. "The Assault in the U.S. Senate Chamber on Senator Sumner," artist unknown, wood engraving, published in *Frank Leslie's Illustrated Newspaper*, June 7, 1856 (15 5/8" x 10 5/16"); USS, 38.00292.001.

54. Petition in support of the Crittenden Compromise, from the officers and members of the Union Fire Company of Lancaster, Pennsylvania, February 6, 1861 (25 1/4" x 33 7/8"); NA, Sen. 36A-J3.

55. Electoral ballot box, mahogany, 1980 (9" x 18" x 10"); USS, 79.00003.001. This electoral ballot box, similar in design to those of the 19th century, has been used in the last three presidential elections.

56. Campaign memorabilia from the Hayes and Tilden presidential election, 1876, Tilden ribbon with pin (5 7/8" x 2"); NMAH, 227739.1876.J7; Union Republican Ticket ribbon (7 3/8" x 2 13/16"); NMAH, 1979.0215.117; Hayes and Wheeler Song Book (6 1/16" x 3 7/8"); NMAH, 315264.0529.

57. Certificate of Republican electors for Florida, December 6, 1876 (10" x 8"); NA, Sen. 44A-K1. The four electors listed on this certificate supported Rutherford B. Hayes for president and William A. Wheeler for vice president.

58. Certificate of Democratic electors for Florida, January 26, 1877 (10" x 8"); NA, Sen. 44A-K1. Over a month after the first certificate for Florida was submitted, a new governor from Florida, George F. Dew, certified four different electors; these supported Samuel J. Tilden for president and Thomas A. Hendricks for vice president.

59. "Compromise—Indeed!," Thomas Nast (1840–1902), wood engraving, published in *Harper's Weekly*, January 27, 1877 (11 5/8" x 16 1/2"); USS, 38.00113.001.

60. Decision of Electoral Commission on Florida electors, signed by the eight Republican members, February 9, 1877 (12 3/8" x 8 1/8"); NA, Sen. 44A-K1. The Electoral Commission decided to accept the four Republican electoral votes, and declared the Democratic certificate invalid.

61. "Washington, D.C.—the Electoral Contest—the United States Senators Entering the House of Representatives, with the Electoral Certificates, to Re-Open the Joint Session, February 12th," Henry A. Ogden (1856–1936), wood engraving, published in *Frank Leslie's Illustrated Newspaper*, March 3, 1877, (16" x 11 1/8"); USS, 38.00245.002. Senators are shown proceeding through Statuary Hall on

their way to the House of Representatives chamber. Isaac Bassett, assistant doorkeeper of the Senate, carries the ballot boxes.

62. *The Electoral Commission of 1877*, Cornelia A. Fassett (1831–1898), oil on canvas, 1879 (61 1/2" x 75"); USS, 33.00006. Cornelia Fassett was given temporary studio space in the Supreme Court chamber in the Capitol (now the Old Senate Chamber), in order to paint the electoral commission's meeting place.

63. Key to Cornelia A. Fassett's *The Electoral Commission of 1877*, Gedney (dates unknown), photo-lithograph, circa 1890 (14 5/16" x 11 1/4"); USS, 38.00373.001.

64. *United States Senate Chamber,* Thomas Doney (active circa 1844–1870), after James A. Whitehorne, after daguerreotypes by Victor Piard of Anthony, Clark and Company, mezzotint and etching, 1846 (29 1/16" x 39 7/16"); USS, 38.00027.001. This engraving commemorates Henry Clay's farewell speech to the Senate on March 31, 1842. While the composite provides accurate portraits of distinguished Americans, based on daguerreotypes, the individuals represented never all appeared in the chamber at the same time.

What are the Senate's treaty-making powers?

65. Leaf from John Jay's original manuscript draft of *The Federalist* No. 64, 1788 (14 1/2" x 9 1/16"); The New-York Historical Society, New York, New York. During the "pamphlet wars" of 1787–1788, Alexander Hamilton, James Madison, and John Jay wrote *The Federalist*, a series of essays explaining and supporting ratification of the Constitution. Of the 85 essays, only four manuscript drafts, all by Jay, are known to exist. In this leaf from *The Federalist* No. 64, Jay discusses the importance of the Senate's role in the treaty-making process.

66. The Rule of 1801, January 5, 1801 (8 1/8" x 4 13/16"); NA, Sen. 6A-B3. A Senate standing rule on how treaties must be passed, the Rule of 1801 specified that treaties would have three readings on three separate days.

67. Message from President George Washington, informing the Senate that he would meet to advise with them regarding a treaty with the southern Indians, August 22, 1789 (12 1/8" x 7 7/8"); NA, Sen., Anson McCook Collection.

68. Letter from the warring chiefs and representatives of the Cherokee nation to President George Washington and Congress, May 19, 1789 (12 5/8" x 7 5/8"); NA, Sen. 1B-C2. The Cherokee chiefs and representatives wrote asking that the United States end its violations of a 1785 treaty. Rather than try to enforce the treaty, Washington chose to negotiate a new one, which was ratified in 1791.

69. Indian peace medal issued by George Washington, Joseph Richardson, Jr. (1752–1831), silver, 1792 (6 7/8" x 5"); NMAH.

70. Message from George Washington to the Senate asking for advice and consent on the Jay Treaty, June 8, 1795 (14 9/16" x 9 1/16"); NA, Sen. 4B-B4.

71. *John Jay* (1745–1829), Cornelius Tiebout (circa 1777–1832), after Gilbert Stuart, stipple engraving, 1795 (12 5/16" x 8 3/4"); NPG, 78.238.

72. Exchange copy of the Jay Treaty between the United States and Great Britain, October 28, 1795 (15 3/4" x 19", skippet: 6 3/4" dia.); NA, RG 11, TS 105 EX.

73. King-Hawkesbury Convention with Great Britain, May 12, 1803 (14 1/2" x 18 1/2"); NA, RG 11, UTS A-1.

74. Resolution that the Senate has given its advice and consent to the amended King-Hawkesbury Convention, February 9, 1804 (14 1/2" x 8 3/4"); NA, RG 11, UTS A-1.

75. Draft of President Thomas Jefferson's acceptance of the King-Hawkesbury Convention, noting that the fifth article had been stricken, February 14, 1804 (10" x 8"); NA, RG 11, UTS A-1.

76. Exchange copy of the treaty with Colombia (in Spanish), December 10, 1824 (12 3/4" x 8"); NA, RG 11, UTS K.

77. Letter from the Senate rejecting the treaty with Colombia, March 9, 1825 (12 1/2" x 8"); NA, RG 11, UTS K.

78. *George Washington* (1732–1799), Rembrandt Peale (1778–1860), oil on canvas, 1823 (69 1/2" x 52 1/2"); USS, 31.00001. The United States Senate, by resolution on July 2, 1832, purchased Rembrandt Peale's "original portrait of George Washington, for the Senate Chamber." Here the painting hung over the vice president's dais for nearly thirty years. When the Senate moved to its present chamber in 1859, the portrait was moved to the new Vice President's Room. It remained there until 1973, when the restoration of the Old Senate Chamber made it possible for the painting to be returned to its original location.

79. Letter from President Thomas Jefferson to the Senate appointing Robert Livingston as minister to France, Charles Pinckney as minister to Spain, and James Monroe as minister extraordinary to both France and Spain, January 11, 1803 (9 13/16" x 8 1/16"); NA, Sen. 7B-B3. Jefferson dispatched Livingston, Pinckney, and Monroe "for the purpose of enlarging, and more effectively securing, our rights and interests in the river Missispi, and in the territories eastward thereof." Expecting only to buy the Isle of Orleans, on which New Orleans stood, and the Floridas, the Americans came away with a territory which doubled the size of the United States.

80. Confidential message from the clerk of the House of Representatives to the Senate, February 15, 1803 (12 5/8" x 7 3/4"); NA, Sen., Anson McCook Collection. The Clerk of the House notified the Senate that a bill had been passed in the House enabling the president to negotiate more effectively with the French and Spanish governments regarding the Louisiana Purchase.

81. Exchange copy of the convention between the United States of America and the French Republic (Louisiana Purchase), April 30, 1803 (10 1/4" x 15 1/4", skippet: 5 1/4" dia.); NA, RG 11, TS 86B.

82. Letter from President Thomas Jefferson to Congress reporting the transfer of the Louisiana territory, January 16, 1804 (10" x 8"); NA, Sen. 8B-B1. Jefferson wrote: "On this important acquisition, so favorable to the immediate interests of our Western citizens, so auspicious to the peace and security of the nation in general, which adds to our country territories so extensive and fertile, and to our citizens new brethren to partake of the blessings of freedom and self-government, I offer to Congress and our country my sincere congratulations."

83. Map showing the land ceded to the United States through the Louisiana Purchase, circa 1900 (12 1/4" x 18 7/8"); NA, RG 49, Old Map File, U.S. 40.

84. *The Acquisition of Louisiana: A National Song*, first half of 19th century (12 1/2" x 9 5/8"); LC, Music Division.

85. Treaty of peace and amity between His Britannic Majesty and the United States of America (Treaty of Ghent), December 24, 1814 (13" x 8"); Henry Goulburn papers, William L. Clements Library, University of Michigan, Ann Arbor, Michigan.

86. John Quincy Adams, appointed to the American commission to negotiate the Treaty of Ghent, Pieter Van Huffel (1769–1844), pencil on paper, 1815 (8" x 5"); Christopher Hughes papers, William L. Clements Library, University of Michigan, Ann Arbor, Michigan.

87. Other commissioners for the Treaty of

Ghent included: Henry Clay, James Bayard, and Albert Gallatin, Pieter Van Huffel (1769–1844), pencil on paper, 1815 (8" x 5"); Christopher Hughes papers, William L. Clements Library, University of Michigan, Ann Arbor, Michigan.

88. Treaty of Annexation of Texas, April 12, 1844 (13" x 7 7/8"); NA, RG 11, UTS R-3.

89. Letter from the Senate stating that the treaty proposing the annexation of Texas was rejected, June 8, 1844 (13" x 8"); NA, RG 11, UTS R-3.

90. *Texas Coming In*, H. Bucholaer (active 1843–1847), published by James S. Baillie (active 1838–1855), lithograph, 1844 (14 1/4" x 19 3/8"); LC, Prints and Photographs Division.

91. Map of the port of San Diego, 1782 (13 3/4" x 11"); NA, RG 11, TS 207 AO.

92. Senate amendments to the Treaty of Guadalupe Hidalgo, March 10, 1848 (13 1/4" x 7"); NA, RG 11, TS 207 AO.

93. Exchange copy of the Treaty of Guadalupe Hidalgo between the United States and Mexico, February 2, 1848 (10 1/2" x 14 1/2", skippet: 6" dia.); NA, RG 11, TS 207 EX.

94. *Daniel Webster Addressing the United States Senate*, James M. Edney (dates unknown), lithograph, 1860 (26" x 32 3/4"); USS, 38.00016.004. This lithograph, which depicts all the senators and Vice President Millard Fillmore, offers a rare contemporary illustration of the Old Senate Chamber's interior details and the members' seating arrangement.

What is the Senate's role in nominations?

95. *William Short* (1759–1849), John Sartain (1808–1897), after oil painting by John Neagle, engraving, circa 1840 (12 1/4" x 9 5/8"); The Historical Society of Pennsylvania, Philadelphia, Pennsylvania.

96. Nomination of William Short as *chargé d'affaires* to France, June 15, 1789 (12 1/2" x 8"); NA, Sen. 1B-A1.

97. *Washington and His Cabinet*, Currier & Ives lithography company (active 1857–1907), lithograph, 1876 (13 3/16" x 17 1/4"); LC, Prints and Photographs Division.

98. George Washington's cabinet nominations, September 11, 1789 (12 1/2" x 7 13/16"); NA, Sen. 1B-A1.

99. George Washington's court nominations, September 24, 1789 (14 7/16" x 9 7/16"); NA, Sen., Anson McCook Collection.

100. George Washington's cabinet nominations, September 25, 1789 (12 3/8" x 7 3/4"); NA, Sen., Anson McCook Collection. To complete his cabinet, President Washington nominated Thomas Jefferson as secretary of state, Edmund Randolph as attorney general, and Samuel Osgood as postmaster general.

101. Nomination of John Jay as envoy extraordinary to Great Britain, April 16, 1794 (14 5/8" x 9 1/8"); NA, Sen. 3B-A2.

102. Letter from John Frazee noting that he is the first American artist to receive a commission from the United States government, March 30, 1830 (9 3/4" x 7 1/4"); NA, RG 42, 2797 1/2. Congress paid $400 to artist John Frazee for a bust of John Jay for the Supreme Court chamber in the Capitol. Frazee wrote at the time: "This is, I believe, the first instance where our Government has voluntarily bestowed its patronage on an American genius, in this department of the arts; and you cannot imagine with what emotions of pleasure I rec'd the intelligence.— Not however, in a pecuniary view, although the price is very fair; but, my joy was kindled through considerations of a more elevated nature."

103. *John Jay* (1745–1829), John Frazee (1790–1852), marble, 1831 (30"); USS, 21.00010.

104. Bronze version of Ulysses S. Grant's congressional medal, December 17, 1863, Anthony C. Paquet (1814–1882), bronze, circa 1863 (4 1/16"); NMAH. In December, 1863, Grant was voted a gold medal by Congress for his successes against the Confederacy. Bronze replicas of the medal were also struck.

105. Nomination of Ulysses S. Grant as lieutenant general in the Army of the United States, February 29, 1864 (9 7/8" x 7 15/16"); NA, Sen., Anson McCook Collection. Following his successful campaigns at Vicksburg and Chattanooga, Ulysses S. Grant was promoted to lieutenant general by President Lincoln.

106. Nomination of Ulysses S. Grant as general on the retired list of the army, March 3, 1885 (13 3/8" x 8 1/4"); NA, Sen., Anson McCook Collection. In 1884, a failed business venture financially ruined former general and president Ulysses S. Grant. To alleviate his poverty, in March 1885, Congress reinstated him to the rank of general on the retired list of the army, with full pay. He died four months later.

107. *Last Photograph of Gen. Grant, Four Days Before Death*, photograph, albumen print, July 22, 1885 (5 1/4" x 8 1/2"); Ohio Historical Society, Columbus, Ohio. Grant was photographed on his porch at Mount McGregor, New York, on the day he finished his memoirs.

108. *Personal Memoirs of U.S. Grant*, Vol. 1 of 2 (New York: Charles L. Webster & Co., 1885) (9 7/16" x 6 5/8"); private collection. Mark Twain, a partner in the publishing house of Charles L. Webster & Company, offered Grant a $25,000 advance against 20 percent royalties for his memoirs. Dying of cancer and desperate to provide for his family, Grant completed his autobiography four days before his death. The agreement left Twain and Webster & Company bankrupt, but Mrs. Grant a wealthy presidential widow.

109. Nomination of John Quincy Adams as minister plenipotentiary to the King of Prussia, May 20, 1797 (9 7/8" x 8"); NA, Sen., Anson McCook Collection.

110. *John Quincy Adams* (1767–1848), John Singleton Copley (1738–1815), oil on canvas, 1795 (30" x 25"); Museum of Fine Arts, Boston, Massachusetts, 17.1077. Adams was appointed to this post by his father, President John Adams.

111. Nomination of Benjamin Fishbourn as naval officer for the port of Savannah, August 3, 1789 (12 1/2" x 15 3/4"); NA, Sen. 1B-A1.

112. Nomination of John Rutledge as chief justice of the Supreme Court of the United States, December 10, 1795 (14 3/4" x 9 1/8"); NA, Sen. 4B-A1.

113. *John Marshall* (1755–1835), E. B. and E. C. Kellogg lithography company (active circa 1842–1867), after William Henry Brown, published in *Portrait Gallery of Distinguished American Citizens*, (Hartford, Connecticut: William H. Brown, 1846), lithograph, 1844 (16 3/4" x 12 5/8"); USS, 38.00073.001.

114. Nomination of William Marbury as justice of the peace for the County of Washington in the District of Columbia, March 2, 1801 (10" x 15 3/4"); NA, Sen. 6 B-A1, A2. During the final hours of the Adams administration, William Marbury was appointed a justice of the peace. Secretary of State James Madison, under Jefferson's new administration, refused to deliver Marbury's commission. Marbury requested the Supreme Court to issue a writ of mandamus forcing Madison to honor the appointment.

115. William Marbury's motion before the Supreme Court requesting a writ of mandamus against James Madison, December 1801 (13 5/16" x 7 11/16"); NA, RG 267, Original Jurisdiction File. This document initiated the Supreme Court case *Marbury v. Madison*. While the case served to increase the power of the judicial branch, the immediate result for Marbury was less fortunate. The Supreme Court

ruled that it did not have the jurisdiction to issue a writ of mandamus against Madison.

116. Bill to limit the term of office of certain officers therein named, and for other purposes (Four Years Law), April 20, 1820 (13 3/8" x 8 1/8"); USS, S. 119, 16th Cong. 1st Sess., 1820.

117. Committee report on the extent of executive patronage under President Andrew Jackson, February 9, 1835 (9 1/8" x 6 1/4"); USS, S. Rept. 108, 23rd Cong. 2nd Sess., 1835. Congress appointed a select committee, chaired by Senator John C. Calhoun, "to inquire into the extent of executive patronage; the circumstances which have contributed to its great increase of late; the expediency and practicability of reducing the same, and the means of such reduction."

118. *Caleb Cushing* (1800–1879), Alexander Hay Ritchie (1822–1895), after photograph, engraving, circa 1860 (11 5/8" x 8 1/16"); LC, Prints and Photographs Division.

119. *John Tyler* (1790–1862), Charles Fenderich (1805–1887), lithograph, 1841, (16 1/2" x 13 5/16"); LC, Prints and Photographs Division.

120. "A Falling Off—Of Bosses," Thomas Nast (1840–1902), wood engraving, published in *Harper's Weekly*, June 25, 1881 (15 5/8" x 11 1/4"); USS, 38.00460.001.

121. Nomination of William H. Seward as secretary of state, March 5, 1861 (13 7/16" x 8 1/4"); NA, Sen., Anson McCook Collection.

122. *The First Reading of the Emancipation Proclamation*, Alexander Hay Ritchie (1822–1895), after oil painting by Francis B. Carpenter, engraving, 1864 (28" x 37 13/16"); USS, 38.00450.001. The principals are arranged symbolically, with those cabinet members most favorable to the proclamation placed in the foreground or by the president's side. Shown in the print are, from left to right: Edwin M. Stanton, secretary of war; Salmon P. Chase, secretary of the treasury; President Abraham Lincoln; Gideon Welles, secretary of the navy; William H. Seward, secretary of state; Caleb B. Smith, secretary of the interior; Montgomery Blair, postmaster general; and Edward Bates, attorney general.

Why was the Senate given impeachment powers?

123. *John Pickering* (circa 1738–1805), artist unknown, watercolor on ivory, circa 1795 (1 11/16" x 1 1/2"); New Hampshire Historical Society, Concord, New Hampshire, 1913.8.1.

124. Senate motion to resolve itself into a court of impeachment for the trial of Judge John Pickering, January 3, 1804 (9 7/8" x 7 13/16"); NA, Sen. 8C-A2.

125. Deposition by Dr. Joshua Brackett confirming Judge John Pickering's insanity, February 14, 1804 (9 13/16" x 7 7/8"); NA, Sen. 8C-A2.

126. Message from the House of Representatives to the Senate listing managers for the impeachment trial of Judge West H. Humphreys, received May 21, 1862 (13" x 8 1/4"); NA, Sen. 37C-Al.

127. Articles of impeachment against Judge West H. Humphreys, presented May 22, 1862 (13 3/4" x 8 7/16"); NA, Sen. 37C-A1.

128. Copies of President Abraham Lincoln's war proclamations, June 19, 1862 (10 1/8" x 8 1/8"); NA, Sen. 37C-A1. These proclamations were certified as true by Secretary of State William H. Seward and used as evidence in the Humphreys impeachment trial.

129. "Fraud In High Places—How Long Will It Last?," Joseph Keppler (1838–1894), wood engraving, published in *Frank Leslie's Illustrated Newspaper*, March 18, 1876 (15 13/16" x 11 1/16"); USS, 38.00472.001. The "Sold Here" sign which William Belknap is posting

refers to the position that the former secretary of war sold for personal profit. The words "Black Friday" and "Whiskey Patronage" allude to two earlier scandals which plagued President Grant's administration.

130. "Puck Wants 'A Strong Man at the Head of Government'—BUT NOT THIS KIND," Joseph Keppler (1838–1894), lithograph, published in *Puck*, February 4, 1880 (19 5/8" x 13 1/4"); USS, 38.00474.001.

131. *Bvt. Maj. Gen. W. W. Belknap*, studio of Mathew Brady (active 1844–1883), photographic reproduction, original 1865 (11" x 14 1/16"); LC, Prints and Photographs Division, Photo Group 4185, Civil War.

132. Plea of William W. Belknap to the Senate, April 17, 1876 (13 15/16" x 8 1/2"); NA, Sen. 44C. Belknap argued that he was not subject to impeachment since he had resigned as secretary of war, and hence, was no longer a federal officer.

133. Proposed Senate resolution relinquishing jurisdiction over the impeachment case of William Belknap, May 29, 1876 (4 3/4" x 7 13/16"); NA, Sen. 44C.

134. Judgement of the Senate acquitting William Belknap, August 1, 1876 (4 3/4" x 7 3/16"); NA, Sen. 44C. On each of the five articles of impeachment, the Senate fell four votes short of the two-thirds majority necessary for conviction.

135. Instructions to Justice Samuel Chase describing how he should proceed at his trial, February 11, 1805 (7 13/16" x 12 3/4"); NA, Sen. 8C-B2.

136. Letter from Senator John Quincy Adams to his father, John Adams, describing Republican efforts to remove Federalist judges, March 8, 1805 (9 1/2" x 7 7/8"); Massachusetts Historical Society, Boston, Massachusetts. Senator Adams expressed concern about the political implications of impeachment trials: "The impeachment and conviction of Mr. Pickering, of a man notoriously and confessedly insane . . . was but a preparatory step to the assault upon Judge Chase, as this in its turn was unquestionably intended to pave the way for another prosecution, which would have swept the supreme judicial bench clean at a stroke."

137. *Trial of Samuel Chase, An Associate Justice of the Supreme Court of the United States, Impeached by the House of Representatives for High Crimes and Misdemeanors, Before the Senate of the United States,* (Washington, D.C.: Samuel H. Smith, 1805), Vol. 2 of 2 (8 5/8" x 5 3/8"); USS, KF 8782.C5 S6.

138. *Managers of the House of Representatives of the Impeachment of Andrew Johnson*, Mathew Brady (1823–1896) or his studio; photographic reproduction, original 1868 (6 3/4" x 9"); NPG, 77.127.

139. Articles of impeachment against President Andrew Johnson, March 2, 1868, (13 5/8" x 8 3/8"); NA, Sen. 40C-A2.

140. Letter to the Senate from Chief Justice Salmon P. Chase, March 4, 1868 (9 15/16" x 7 3/4"); NA, Sen. 40C-A2. Chief Justice Salmon P. Chase, who was to preside over the court of impeachment for President Andrew Johnson, submitted his opinion on how the trial should proceed. He observed that one reason the chief justice was given the responsibility of presiding, instead of the vice president, was that "the next in succession should not preside in a proceeding through which a vacancy might be created."

141. "Judge Nelson Administering the Oath to Chief Justice Chase, as Presiding Officer of the Court of Impeachment, in the Senate Chamber, Washington, D.C., on the 5th March," James E. Taylor (1839–1901), wood engraving, published in *Frank Leslie's Illustrated Newspaper*, March 28, 1868, (10 7/8" x 9 3/8"); USS, 38.00379.001.

142. Precept for the sergeant at arms of the Senate to serve a writ of summons on President Andrew Johnson, March 7, 1868 (12" x 8"); NA, Sen. 40C-A2. This precept, signed by Chief Justice Salmon P. Chase, commands the sergeant at arms to deliver and leave with Andrew Johnson a "true and attested copy" of the writ of summons and precept at least five days before President Johnson was to appear before the Senate to answer the impeachment charges.

143. Writ of summons served by the sergeant at arms on President Andrew Johnson, March 13, 1868 (12" x 8"); NA, Sen. 40C-A2.

144. "George T. Brown, Sergeant-at-Arms of the Senate, Serving the Summons on President Johnson," Theodore R. Davis (1840–1894), wood engraving, published in *Harper's Weekly*, March 28, 1868 (15 7/16" x 10 5/16"); USS, 38.00333.001.

145. "The High Court of Impeachment," James E. Taylor (1839–1901), wood engraving, published in *Frank Leslie's Illustrated Newspaper*; April 11, 1868 (23" x 31 3/4"); USS, 38.00191.001. *Frank Leslie's Illustrated Newspaper* stated that this engraving "should be framed and kept as an heirloom . . . for the time will come when, to future generations, this picture will tell, more eloquently than written words, its story of a crisis, the results of which none can now foresee in the experiment of republicanism, that is now passing, perhaps, its most trying ordeal."

146. Reply of President Andrew Johnson to the articles of impeachment brought against him, March 23, 1868 (13 3/4" x 8 3/8"); NA, Sen. 40C-A2. In responding to the 11 articles of impeachment, President Johnson wrote that he was justified in replacing Secretary of War Edwin Stanton. He argued that "the Constitution of the United States conferred on the President . . . the power at any and all times of removing from office all executive officers for cause to be judged of by the President alone."

147. Letter from President Andrew Johnson to Secretary of the Treasury Hugh McCulloch, August 14, 1867 (9 3/4" x 7 3/4"); NA, Sen. 40C-A2.

148. Attested copy of Senate resolution asserting that President Andrew Johnson has no power to remove the secretary of war, February 21, 1868 (13 11/16" x 8 5/16"); NA, Sen. 40C-A2.

149. Three ballots used in the impeachment trial of President Andrew Johnson, May 1868 (each 18" x 4 1/2"); NA, Sen. 40C-A2.

150. "The Ladies' Gallery of the Senate During the Impeachment Trial," W. S. L. Jewett (dates unknown), wood engraving, published in *Harper' Weekly*, April 18, 1868 (10 7/8" x 15 3/4"); USS, 38.00086.002.

151. Admission ticket to the impeachment trial of President Andrew Johnson, April 22, 1868 (2 7/8" x 3 1/2"); University of Hartford: Museum of American Political Life, Hartford, Connecticut. The one thousand tickets printed were divided among the members of Congress, the president, the Supreme Court, the diplomatic corps, and various public figures.

152. "The Impeachment Trial, Washington, D.C.—Remarkable Scene in the United States Senate, May 6th—The Audience in the Galleries Applauding at the Close of Manager Bingham's Speech," James E. Taylor (1839–1901), wood engraving, published in *Frank Leslie's Illustrated Newspaper*; May 23, 1868 (11 1/16" x 15 9/16"); USS, 38.00365.001. On May 6, when Representative John Bingham finished summarizing the prosecution's case, the spectators caused such an uproar that the sergeant at arms was forced to clear the galleries. *Frank Leslie's Illustrated Newspaper* described the commotion: "The clapping of hands, the waving of handkerchiefs, the tumult of excited approbation, presented such a scene not often associated with the history of parliamentary proceedings."

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